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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, October 20, 2009
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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FEDERAL RESERVE SYSTEM

12 CFR Part 219

[Regulation S; Docket No. R–1325]

Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has approved amendments to Subpart A of Regulation S, which implements the requirement under the Right to Financial Privacy Act (RFPA) that the Board establish the rates and conditions under which payment shall be made by a government authority to a financial institution for assembling or providing financial records pursuant to RFPA. These proposed amendments update the fees to be charged and takes account of recent advances in electronic document productions.

DATES: *Effective Date:* January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Jason Gonzalez, Counsel (202/452–3275), Legal Division, Board of Governors of the Federal Reserve System, Washington, DC 20551. For users of the Telecommunication Device for the Deaf (TDD), please call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

Background

Section 1115 of the RFPA (12 U.S.C. 3415) requires the Board to establish, by regulation, the rates and conditions under which payment is made by a Government authority to a financial institution for searching for, reproducing, or transporting data required or requested under the RFPA. Shortly after the RFPA was adopted, the Board issued Regulation S (12 CFR Part 219) to implement this provision (44 FR 55812, September 28, 1979). These provisions were subsequently designated Subpart A of Regulation S. In June 1996, the Board revised Regulation S by updating the fees financial institutions could charge and streamlining the Subpart generally. (61 FR 29638, June 12, 1996).

Since the last revision, two significant changes have occurred that now require further amendments to Subpart A of Regulation S. First, increases in salary and benefits have caused the fees chargeable for reproducing financial records to become outdated. Furthermore, in recent years, the production of electronically stored information during investigations and in litigation has become increasingly common.[1] Many government agencies now prefer to receive information in digital formats, thereby easing handling and analysis. In addition, many agency document requests now require that information be submitted in electronic form.

Proposed Amendments

In response to these developments, the Board proposed in August 2008 issuing amendments designed to update the existing rates to be paid for personnel costs, to provide a reimbursement scheme that more accurately reflects the costs of producing electronically stored information in digital formats, and making minor clarifying changes (73 FR 47854, August 15, 2008). Specifically, the proposed amendments substantially increased the labor rates, added a third job category for specialized computer support, included an automatic adjustment every five years for changes in labor rates, precluded reimbursement on a per-page basis for production of paper documents that had been stored electronically unless the requesting government agency sought production of paper documents, and replaced the $5.00 ''per diskette'' charge with a $5.00 fee for electronic transmissions, per request. The **Federal Register** Notice accompanying the proposed amendments also sought comments on whether the existing fees for microfiche or microfilm-based productions should be eliminated as outmoded.

Summary and Analysis of the Comments

The Board received eleven comments on the proposed revisions, most of which were supportive of the Board's effort to update the regulation.

Personnel Labor Rates

Most of the comments strongly supported increasing the labor rates found in Subpart A. Four comments asserted that the new rates were too low, but none suggested an alternative benchmark for salary and benefits that would be more reliable than what is contained in the Occupational Employments Statistics (''OES'') program maintained by the Bureau of Labor Statistics (''BLS''), which provided the basis for the labor wage rates in the proposed amendments.

None of the comments objected to the Board's mechanism for periodically updating the labor rates found in the regulation; however, three comments urged the Board to consider updating the rates more frequently than every five years, such as annually, bi-annually, or every three years. Under the proposed rule, the labor rates would be adjusted on April 1, 2012, and every five years thereafter. In May 2009, the BLS issued new data under the OES program, but the new data did not result in any changes to the personnel reimbursement rates set forth in the proposed amendments. The Board has modified the schedule in the final rule to provide for updated labor rates every three years, beginning September 30, 2012. The Board believes that a three-year schedule provides an appropriate balance between the convenience of having financial institutions and agencies using the same rates for an extended period of time against the benefit of relying on more recent wage data. The September 30 date is appropriate because the BLS data are typically released in May, which will provide the Board with an adequate lead time to incorporate the recent data to into the reimbursement rate schedules and publicize these changes to the industry.

Three comments suggested adding language that would permit the Board to designate an equivalent source of wage data in the event the BLS substantially changes or eliminates the relevant job

[1] Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, Federal Practice & Procedure, § 2218 at 449 (2d ed. 2006).

categories found in the OES program. The final rule accepts this suggestion so that a full rulemaking proceeding does not need to be initiated just to make a technical conforming change to the calculation of the labor rates.

Limitations on per-Page Reimbursement for Paper Documents

One trade group raised several issues about the provision that would prevent financial institutions from being reimbursed on a per-page basis for paper copies of electronically stored documents, unless the government agency seeking the documents requested production of the information on paper. The trade group questioned whether the Board has the authority to limit reimbursement in this fashion. Section 1115 of the RFPA (12 U.S.C. 3415) requires the Board to issue regulations ''to establish the rates and *conditions''* for reimbursement of ''such costs as are *reasonably necessary* and which have been *directly incurred* in searching for, reproducing or transporting the books, papers, records *or other data* required or requested * * *'' (emphasis added). The Board interprets this statutory language not to require additional reimbursement to financial institutions for the creation of paper records when the information is stored in electronic form, paper documents are not required in order for the financial institution to comply with the government agency's request, and reimbursement is available for personnel and certain out-of-pocket costs incurred while searching for, reproducing, and delivering the information to the requesting agency in digital form. In such a case, costs incurred for production of paper records are not reasonably necessary to comply with the government agency request.

The trade group that opposed the conditions on per-page reimbursement for paper copies also asserted that some financial institutions will need to devote resources to converting their electronic information to usable formats in order to comply with a government document request, and that such conversion may be complex or costly, but not be reimbursed. The Board believes that some such costs are likely to be incurred in any event because an increasing proportion of document requests (governmental and nongovernmental) now require that information be provided in electronic formats. *See* Fed. R. Civ. Proc. 45(d)(1)(B)(electronically stored information must be produced in format specified, or, if not specified, in the form in which it is ordinarily maintained or in a reasonably usable form). Moreover, Regulation S permits institutions to receive reimbursement, ''[i]f itemized separately [for] the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies.'' 12 CFR 219.4(b)(2). Accordingly, such conversion costs are reimbursable according to the terms of the regulation. Finally, under the terms of the amended regulation, a government agency may agree to accept paper copies in lieu of an electronic production, and the financial institution will be reimbursed on a per-page basis.

The trade group and a financial institution also expressed concern that production of customer information in electronic form could raise privacy issues and the possibility of data breaches, as well as evidentiary issues in subsequent proceedings. While privacy protection is a significant issue, financial institutions generally are required to have policies and procedures to safeguard customer data under other laws. The Board also notes that production of customer information in paper form is among the least secure media, without password protection or encryption. As discussed below, the amended regulation also provides that financial institutions may be reimbursed for the actual cost of storage media, which may include encryption technologies. Financial institutions may also be reimbursed for delivery costs, which may include reasonable measures taken to insure against a data breach, such as the use of registered mail or courier services as required. Additional concerns about customer privacy and safeguards against data breaches may be addressed by the requesting government agency and the financial institution producing the information. Similarly, any issues about authentication of electronic data as opposed to paper documents may be addressed between the requesting agency and the financial institution. A government agency that is concerned about authentication of electronically produced information may request production in paper form, which entitles the financial institution to reimbursement on a per-page basis.

Alternatively, the trade group requested that the implementation of the amended rule be delayed for a year to enable financial institutions to revamp their systems to produce documents electronically. The Board has determined that January 1, 2010, should be the effective date. This effective date is more than a year after the amended rule was first proposed. Financial institution reimbursements for personnel costs will significantly increase as a result of the amendments, which are likely to offset in whole or in part any reduction in reimbursement amounts attributable to the inability to charge on a per-page basis for paper documents.

Proposed $5.00 Fee for ''Electronic Productions, per Request''

Several comments indicated that there was ambiguity concerning the proposed $5.00 reimbursement for ''Electronic Productions, per request.'' This reimbursement provision was designed to replace the $5.00 ''per diskette'' charge in the existing regulation, because diskettes are no longer widely used, having been replaced by other storage media. The comments also noted that there was ambiguity as to whether ''per request'' meant each account requested by an agency, each customer whose information was being sought, or each production of electronic information. One commenter also noted that some storage media (such as encrypted flash storage devices or ''memory sticks'') cost more than $5.00.

In response to these comments and to eliminate any ambiguity, the Board is revising the provision and eliminating the $5.00 fixed fee for electronic transmissions. In the final version, the schedule in Appendix A specifically contemplates reimbursement for the actual acquisition price to the financial institution of the storage medium (CD, flash storage device, *etc.*) used to transmit the data. No fixed reimbursement will be available for transmittal made by electronic mail (''e-mail''), because it does not appear to be practical to quantify the costs directly incurred (if any) for making e-mail transmissions. Financial institutions may be reimbursed, however, for the personnel costs and other identified costs incurred related to making e-mail transmissions. Whether transmission of customer data by e-mail is acceptable on information security and evidentiary grounds is a matter between the requesting government agency and the financial institution.

Reimbursement for Microfiche and Microfilm Productions

Three comments urged the Board to keep the provisions regarding microfilm and microfiche duplication. Apparently, although use of these media is declining, a significant number of financial institutions continue to maintain records in these formats. Accordingly, the final rule will continue to allow financial institutions to charge $0.25 (per frame) for photocopying microfiche and $.50 (per microfiche) for duplicating microfiche.

Fees for Delivery and Transportation Costs

Two commenters requested that the regulation set out that costs for delivery of the information be reimbursable, such as postage, or courier costs. Reimbursement for these items is already covered by the existing regulation, 12 CFR 219.3(d). However, in light of the comments, the Board is clarifying the language of section 219.3(d) to make explicit that it includes reimbursement for reasonable delivery-related costs.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency that is issuing a final rule to prepare and make available a regulatory flexibility analysis that describes the impact of the final rule on small entities. 5 U.S.C. 603(a). The RFA provides that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

Pursuant to section 605(b), the Board certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The rule implements the reimbursement requirement under the RFPA and will benefit small institutions as a result of the increases in the reimbursement schedule for personnel costs associated with the requirement to assemble and reproduce financial records. The impact on institutions of converting their electronic information to a usable format, at the request of a government agency, would be positive because institutions may be reimbursed for personnel costs in searching for and processing a request for information that is stored electronically, including the personnel time directly incurred in converting the information to a format that the government agency requires. There are no new reporting, recordkeeping, or other compliance requirements associated with this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

List of Subjects in 12 CFR Part 219

Banks, banking, Currency, Federal Reserve System, Foreign banking, Reporting and recordkeeping requirements.

Authority and Issuance

■ For the reasons set out in the preamble, 12 CFR Part 219 is amended as set forth below.

PART 219—REIMBURSEMENT FOR PROVIDING FINANCIAL RECORDS; RECORDKEEPING REQUIREMENTS FOR CERTAIN FINANCIAL RECORDS (REGULATION S)

■ 1. The authority citation for part 219 continues to read as follows:

Authority: 12 U.S.C. 3415.

■ 2. In § 219.3, paragraphs (a), (b)(2), (c), and (d) and appendix A to § 219.3 are revised and paragraph (b)(3) is added to read as follows:

§ 219.3 Cost Reimbursement

(a) *Fees payable.* (1) Except as provided in § 219.4 of this part, a government authority seeking access to financial records pertaining to a customer, by written request, through:

(i) A court order;

(ii) A subpoena issued pursuant to the Federal Rules of Criminal Procedure or the Federal Rules of Civil Procedure; or

(iii) Other agency administrative procedures, including administrative subpoenas, voluntary requests, or other process shall reimburse the financial institution for reasonably necessary costs directly incurred in searching for, reproducing or transporting books, papers, records, or other data as set forth in this section.

(2) The reimbursement schedule for a financial institution is set forth in Appendix A to this section. If a financial institution has financial records that are stored at an independent storage facility that charges a fee to search for, reproduce, or transport particular records requested, these costs are considered to be directly incurred by the financial institution and may be included in the reimbursement.

(b) * * *

(2) If itemized separately, search and processing costs may include the actual cost of extracting electronically stored records, based on computer time and necessary supplies; however, personnel time for computer searches may be paid for at the rates set for computer support specialist, specified in Appendix A to this section, but only when compliance with the request for information requires that the financial institution use programming or other higher level technical services of a computer support specialist in order to reproduce electronically stored information in the format requested by the government authority.

(3) Rates for Search and Processing in Appendix A shall be recalculated as follows on October 1, 2012, and on October 1 of each subsequent three-year period utilizing Bureau of Labor Statistics (''BLS'') data or equivalent data (as so designated by the Board) by replacing the existing hourly rates with the sum of:

(i) *Base labor rate recalculation*—Using the most recently available wage data from the Occupational Employment Statistics program (*http://www.bls.gov/oes/home.htm*) for the BLS industry category ''Credit Intermediation and Related Activities'' (NAICS Code Number 522000) (or successor category):

(A) [Clerical/Technical category] the average of the median hourly rates for the ''Information and Records Clerk'' and ''Computer Operator'' job categories (SOC Code Number 43–4199 and 43–9011) (or any successor job categories);

(B) [Manager/Supervisor category] the median hourly rate for the ''first-line supervisors/managers of office'' job category (SOC Code Number 43–1011) (or successor category), and

(C) [Computer Support Specialist category] the median hourly rate for the ''computer support specialist'' job category (SOC Code Number 15–1041) (or successor category); plus

(ii) *Benefits Adjustment*—an amount for each hourly rate category that is equal to the product of:

(A) The hourly rates set forth in paragraph (b)(3)(i) of this section, and

(B) The most recently available ''percent of total compensation'' represented by ''total benefits'' for the ''Credit Intermediation and Related Activities'' industry category (private sector) set out in the Employment Cost Trends section of the National Compensation Survey (*http://data.bls.gov/PDQ/outside.jsp?survey=cm*); and

(iii) If the recalculated rates for Search and Processing (including the Base labor rate and the benefits adjustment) are not a multiple of $1, the recalculated rates shall be rounded up to the next multiple of $1.

(c) *Reproduction costs.* The reimbursement rates for reproduction costs for requested information are set forth in Appendix A to this section, subject to the Conditions for Payment set forth in § 219.5 of this part. Copies of photographs, films and other materials not listed in Appendix A to this section are reimbursed at actual cost.

(d) *Transportation or delivery costs.* Reimbursement for transportation or

delivery costs shall be for the reasonably necessary costs directly incurred to transport personnel to locate and retrieve the requested information, and to deliver such material to the place of examination.

Appendix A to § 219.3—Reimbursement Schedule

Reproduction:	
Photocopy, per page	$0.25
Paper copies of microfiche, per frame.	0.25
Duplicate Microfiche, per microfiche.	0.50
Storage media	Actual cost.
Search and Processing:	
Clerical/Technical, hourly rate.	22.00
Computer Support Specialist, hourly rate.	30.00
Manager/Supervisory, hourly rate.	30.00

■ 3. In § 219.5, revise paragraph (a) to read as follows:

§ 219.5 Conditions for payment.

(a) *Direct costs.* Payment shall be made only for costs that are both directly incurred and reasonably necessary to provide requested material. Search and processing, reproduction, and transportation or delivery costs shall be considered separately when determining whether the costs are reasonably necessary. Photocopying or microfiche charges are reasonably necessary only if the institution has reproduced financial records that were not stored electronically (*i.e.,* where the information requested was stored only on paper or in microfiche), or where the government authority making the request has specifically asked for printed copies of electronically stored records.

* * * * *

By order of the Board of Governors of the Federal Reserve System, September 23, 2009.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E9–23407 Filed 9–29–09; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0552; Airspace Docket No. 09–ANM–7]

Establishment of Class E Airspace; Ronan, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Ronan, MT. It also makes a minor revision to the legal description of that airspace.

DATES: *Effective Date:* 0901 UTC, December 17, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On July 13, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish additional controlled airspace at Ronan, MT, (74 FR 33381). The additional controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Ronan Airport, Ronan, MT, and to improve the safety of Instrument Flight Rules (IFR) aircraft executing the new RNAV GPS SIAP at Ronan Airport, Ronan, MT.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication, the FAA found that the Federal airways reference was not needed.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing the Class E airspace at Ronan, MT. Controlled airspace is necessary to accommodate IFR aircraft executing a new RNAV (GPS) approach procedure at Ronan Airport, Ronan, MT. This action also deletes reference to excluding airspace within Federal airways in the airport description.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Ronan Airport, Ronan, MT.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM MT, E5 Ronan, MT [New]

Ronan Airport, MT

(Lat. 47°34′02″ N., long. 114°06′04″ W.)

That airspace extending upward from 700 feet above the surface within a 8.4-mile radius of Ronan Airport.

* * * * *

Issued in Seattle, Washington, on September 18, 2009.

William Buck,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. E9–23104 Filed 9–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2009–OS–0090]

RIN 0790–AI58

32 CFR Part 239

Homeowners Assistance Program—Application Processing

AGENCY: Under Secretary of Defense for Acquisition, Technology, and Logistics, Office of the Deputy Under Secretary of Defense (Installations and Environment), DoD.

ACTION: Interim final rule.

SUMMARY: This part continues to authorize the Homeowners Assistance Program (HAP) to financially compensate eligible military and civilian Federal employee homeowners when the real estate market is adversely affected directly related to the closure or reduction-in-scope of operations due to Base Realignment and Closure (BRAC).

The American Recovery and Reinvestment Act of 2009 expanded the HAP to provide assistance to: Wounded members of the Armed Forces (30% or greater disability), surviving spouses of fallen warriors, and wounded Department of Defense (DoD) civilian homeowners reassigned in furtherance of medical treatment or rehabilitation or due to medical retirement in connection with their disability; Base Realignment and Closure (BRAC) 2005 impacted homeowners relocating during the mortgage crisis; and Service member homeowners undergoing Permanent Change of Station (PCS) moves during the mortgage crisis.

The Department of Defense will provide financial assistance to offset financial losses of homeowners who need to sell their homes in conjunction with PCS moves, base closures, combat injuries, or loss of spouse in the line of duty.

DATES: This rule is effective September 30, 2009. Comments must be received by October 30, 2009.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Deanna Buchner, (703) 602–4353.

SUPPLEMENTARY INFORMATION: The prompt implementation of the interim final rule is of critical importance in meeting the goals of the Department of Defense to provide financial stability and increase quality of life for those impacted by the mortgage crisis.

The Under Secretary of Defense for Acquisition, Technology, and Logistics has overall responsibility and provides oversight for this program through the Deputy Under Secretary of Defense for Installations and Environment (DUSD(I&E)). The Army, acting as the DoD Executive Agent for administering the HAP and Expanded HAP, uses the Headquarters, U.S. Army Corps of Engineers (HQUSACE) to implement the program.

a. Executive Order 12866, ''Regulatory Planning and Review''

Under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), a ''significant regulatory action'' is subject to Office of Management and Budget (OMB) review and the requirements of Executive Order 12866. Section 3(f) of the Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule is an economically significant regulatory action under section 3(f) of Executive Order 12866 because it is expected to have an annual effect on the economy of more than $100 million, and materially alter the budgetary impact of the Homeowners Assistance Program. Accordingly, OMB has reviewed this rule.

b. Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been certified by the DUSD(I&E) that 32 CFR part 239 does not contain a Federal mandate that may result in expenditure by State, local and Tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

c. Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified by the DUSD(I&E) that 32 CFR part 239 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

d. Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified by the DUSD(I&E) that 32 CFR part 239 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. These requirements have been submitted to the Office of Management and Budget for approval.

e. Executive Order 13132, ''Federalism''

It has been certified by the DUSD(I&E) that 32 CFR part 239 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the Federal Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 239

Government employees; Grant programs—housing and community development; Housing; Military personnel.

■ Accordingly, 32 CFR Part 239 is revised to read as follows:

PART 239—HOMEOWNERS ASSISTANCE PROGRAM—APPLICATION PROCESSING

Sec.
239.1 Purpose.
239.2 Applicability and scope.
239.3 Policy.
239.4 Definitions.
239.5 Benefit elections.
239.6 Eligibility.
239.7 Responsibilities.
239.8 Funding.
239.9 Application processing procedures.
239.10 Management controls.
239.11 Appeals.
239.12 Tax documentation.
239.13 Program performance review.
239.14 On-site inspections.
239.15 List of HAP field offices.

Authority: 42 U.S.C. 3374 as amended by Section 1001, ARRA, Public Law 111–5.

§ 239.1. Purpose.

This part:

(a) Continues to authorize the Homeowners Assistance Program (HAP) under section 3374 of title 42, United States Code, to assist eligible military and civilian Federal employee homeowners when the real estate market is adversely affected directly related to the closure or reduction-in-scope of operations due to Base Realignment and Closure (BRAC). Additionally, in accordance with Section 1001, American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111–5, this part temporarily expands authority provided in section 3374, title 42, United States Code, to provide assistance to: Wounded, Injured, or Ill members of the Armed Forces (30% or greater disability), wounded Department of Defense (DoD) and Coast Guard civilian homeowners reassigned in furtherance of medical treatment or rehabilitation or due to medical retirement in connection with their disability, surviving spouses of fallen warriors, Base Realignment and Closure (BRAC) 2005 impacted homeowners relocating during the mortgage crisis, and Service member homeowners undergoing Permanent Change of Station (PCS) moves during the mortgage crisis. This authority is referred to as ''Expanded HAP.''

(b) Establishes policy, authority, and responsibilities for managing Expanded HAP and defines eligibility for financial assistance.

(c) In accordance with this part, The Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L) has overall responsibility and, through the Deputy Under Secretary of Defense for Installations and Environment (DUSD(I&E)), provides oversight for this program. The Army, acting as the DoD Executive Agent for administering the HAP, uses the Headquarters, U.S. Army Corps of Engineers (HQUSACE) to implement the program.

§ 239.2. Applicability and scope.

This part applies to the Office of the Secretary of Defense, the Military Departments (including the U.S. Coast Guard), the Chairman of the Joints Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the ''DoD Components''). This part for Expanded HAP is applicable until September 30, 2012, or as otherwise extended by law.

§ 239.3. Policy.

(a) It is DoD policy, in implementing section 3374 of title 42, United States Code, as amended by Section 1001 of the ARRA (Public Law 111–5), that those eligible (*see* § 239.6 of this part) to participate in the HAP and Expanded HAP are treated fairly and receive available benefit as quickly as practicable.

(b) Detailed regulations regarding the determination of available benefits, can also be found in the circular (EC 405–1–18a) published by the HQUSACE, as directed by the Secretary of the Army as the DoD Executive Agent for the Expanded HAP. Changes to the Engineering Circular for the Expanded Homeowners Assistance Program will be submitted for OMB review as required.

§ 239.4. Definitions.

(a) *Armed Forces*. The Army, Navy, Air Force, Marine Corps, and Coast Guard (*see* section 101(a) of Title 10, United States Code, as stipulated in section 1001(p) of Pub. L. 111–5).

(b) *Deficiency judgment*. Judicial recognition of personal liability under applicable State law against a Service member whose property was foreclosed on or who otherwise passed title to another person for a primary residence through a sale that realized less than the full outstanding mortgage balance.

(c) *Deployment*. Performing service in a training exercise or operation at a location or under circumstances that make it impossible or infeasible for the member to spend off-duty time in the housing in which the member resides when on garrison or installation duty at the member's permanent duty station, or home port, as the case may be.

(d) *Eligible mortgage*. A mortgage secured by the primary residence that was incurred to acquire or improve the primary residence. For a mortgage refinancing the original mortgage(s) or for a mortgage incurred subsequent to purchasing the property, funds from the refinanced or subsequent mortgages must be traced to the purchase of the primary residence or have been used to improve the primary residence. Funds from a refinanced or subsequent mortgage that were used for other purposes are not eligible and may not be considered. For permanently reassigned members of the Armed Forces, all payments on an eligible mortgage must be current as of the report-not-later-than date.

(e) *Forward deployment*. Performing service in an area where the Secretary of Defense or the Secretary's designee has determined that Service members are subject to hostile fire or imminent danger under Section 310(a)(2) of title 37, United States Code.

(f) *Market impact zone*. The county, city, or parish in which the primary residence is located.

(g) *Primary residence*. The one- or two-family dwelling from which employees or members regularly commute (or commuted) to their primary place of duty. Under § 239.6(a) and (b) of this part, the relevant property for which compensation might be offered must have been the primary residence of the member or civilian employee at the time of the relevant wound, injury, or illness. The first field grade officer (or civilian equivalent) in the member or employee's chain of command may certify primary residence status.

(h) *Prior fair market value* (PFMV). The PFMV is the purchase price of the primary residence.

(i) *Reasonable effort to sell*. Applicant's primary residence must be listed, actively marketed, and available for purchase for a minimum of 120 days. With regard to marketing, applicant must demonstrate that the asking price was within the current market value of the home as determined by the USACE automated value model (AVM) for no less than 30 days. It is the applicant's responsibility to explain marketing efforts by detailing how the asking price was gradually reduced until it reached the true current fair market value (*i.e.*, maintaining a log containing date and asking price recorded over period of time indicating number of visits by prospective buyers and offers to purchase). If an applicant is unable to sell the primary residence, the HQUSACE will determine whether efforts to sell were reasonable.

(j) *Permanent change of station (PCS).* The assignment or transfer of a member to a different permanent duty station (PDS), to include relocation to place of retirement, under a competent authorization/order that does not specify the duty as temporary, provide for further assignment to a new PDS, or direct the military service member return to the old PDS.

§ 239.5. Benefit elections.

Section 3374 of Title 42, United States Code, as amended by Section 1001 of the ARRA, Public Law 111–5, authorizes the Secretary of Defense, under specified conditions, to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling owned by designated individuals.

(a) *General Benefits:* (1) If an applicant is unable to sell the primary residence after demonstrating reasonable efforts to sell (*see* Definitions, § 239.4(i) of this part), the Government may purchase the primary residence for the greater of:

(i) The applicable percentage (identified by applicant type in § 239.5(a)(4)) of the PFMV of the primary residence, or

(ii) The total amount of the eligible mortgage(s) that remains outstanding.

(2) If an applicant sells, has sold, or otherwise has transferred title of the primary residence, the benefit calculation shall be the amount of closing costs plus an amount not to exceed the difference between the applicable percentage of the PFMV and the sales price.

(3) If an applicant is foreclosed upon, the benefit will pay all legally enforceable liabilities, directly associated with the foreclosed mortgage, for example, a deficiency judgment.

(4) *Applicable Percentage.* (i) If an applicant is eligible under § 239.6(a)(3) or (4) and sells the primary residence, the applicable percentage shall be 90% of the PFMV. In addition, closing costs incurred on the sale may be reimbursed.

(ii) If an applicant is eligible under § 239.6(a)(3) or (4) and is unable to sell the primary residence after demonstrating reasonable efforts to sell, the applicable percentage shall be 75% of the PFMV. Closing costs incurred on the sale will not be reimbursed.

(iii) If an applicant is eligible under § 239.6(a)(1) or (2), the applicable percentage, regardless of whether the applicant sells the primary residence, shall be 95% of the PFMV. In addition, closing costs incurred on the sale may be reimbursed.

(b) *Rules Applicable to All Benefit Calculations.* (1) Prior to making any payment, the Government must determine that title to the property has been transferred or will be transferred as the result of making such payment. If the Government determines that making a benefit payment will not result in the transfer of title to the property, no payment will be made.

(2) A short sale will be treated as a private sale. If an applicant remains personally liable for a deficiency between the outstanding mortgage and the sale price, the amount of this deficiency may be included in the benefit, provided that the total amount of the benefit does not exceed the difference between 95 percent of the PFMV and the sales price.

(c) *Payment of Benefits.* (1) *Private Sale:* Where a benefit payment exceeds funds required to clear the mortgage and pay closing costs, benefit is paid directly to the applicant.

(2) *Government Purchase:* Benefit is paid directly to the lender in exchange for government possession of the property. Since the benefit reimburses the applicant a percentage of the applicant's purchase price, if the benefit exceeds the mortgage payoff amount, the applicant will receive a benefit payment for the difference between the mortgage payoff and the total benefit payment.

(3) *Foreclosure:* In the case of a foreclosure, benefit is paid to lien holder for legally enforceable liabilities.

(d) *Tax Implications.* Under current law, Expanded HAP benefits, including any payment of closing costs, are taxable and subject to withholding.

(1) Expanded HAP payments to, or on behalf of, all civilian applicants are considered income and are taxable as wages.

(2) Payments to, or on behalf of, all members of the Armed Forces are considered income and are taxable. Payments to military members are not subject to social security or Medicare taxes.

§ 239.6. Eligibility.

(a) *Eligibility by Category.* Those eligible for benefits under the Expanded HAP include the following categories of persons:

(1) *Wounded, Injured, or Ill.* (i) Members of the Armed Forces:

(A) Who receive a disability rating of 30% or more for an unfitting condition (using the Department of Veterans Affairs Schedule for Ratings Disabilities), or who are eligible for Service member's Group Life Insurance Traumatic Injury Protection Program, or whose treating physician (in a grade of at least captain in the Navy or Coast Guard or colonel in Army or Air Force) certifies that the member is likely, by a preponderance of the evidence, to receive a disability rating of 30% or more for an unfitting condition (using the Department of Veterans Affairs Schedule for Ratings Disabilities) for wounds, injuries, or illness incurred in the line of duty while deployed, on or after September 11, 2001 and

(B) Who are reassigned in furtherance of medical treatment or rehabilitation, or due to retirement in connection with such disability, and

(C) Who needs to market the primary residence for sale due to the wound, injury or illness. (For example, the need to be closer to a hospital or a family member caregiver or the need to find work more accommodating to the disability.)

(ii) Civilian employees of DoD or the United States Coast Guard (excluding temporary employees or contractors, but including employees of non-appropriated fund instrumentalities):

(A) Who suffer a wound, injury, or illness (not due to own misconduct), on or after September 11, 2001, in the performance of duties while forward deployed in support of the Armed Forces, whose treating physician provides written documentation that the member, by a preponderance of the evidence, meets the criteria for a disability rating of 30% or more. As described in paragraph (a)(1) of this section, this documentation will be certified by a physician in the grade of at least captain in the Navy or Coast Guard or colonel in Army or Air Force.

(B) Who relocate from their primary residence in furtherance of medical treatment, rehabilitation, or due to medical retirement resulting from the wound, injury, or illness, and

(C) Who needs to market the primary residence for sale due to the wound, injury or illness. (For example, the need to be closer to a hospital or a family member caregiver or the need to find work more accommodating to the disability.)

(2) *Surviving Spouse.* The surviving spouse of a Service member or of a civilian employee:

(i) Whose spouse dies as the result of a wound, injury, or illness incurred in the line of duty while deployed (or forward deployed for civilian employees) on or after September 11, 2001, and

(ii) Who relocates from the member's or civilian employee's primary residence within two years of the death of spouse.

(3) *BRAC 2005 Members and Civilian Employees.* Members of the Armed Forces and civilian employees of the Department of Defense and the United States Coast Guard (not including temporary employees or contractors) and employees of non-appropriated fund instrumentalities assigned on May 13, 2005, to an installation or unit identified for closure or realignment under the 2005 round of the Base Realignment and Closure Act of 1990:

(i) Whose position is eliminated or transferred because of the realignment or closure; and

(ii) Who accepts employment or is required to relocate because of a transfer beyond the normal commuting distance from the primary residence (50 miles).

(4) *Permanently Reassigned Members of the Armed Forces.* Members who are reassigned under permanent PCS orders:

(i) Dated between February 1, 2006 and September 30, 2012 (subject to availability of funds),

(ii) To a new duty station or home port outside a 50-mile radius of the member's former duty station or home port.

(b) Eligibility based on Economic Impact, Timing, Price, Orders, and Submission of Application.

(1) *Minimum Economic Impact.* (i) BRAC 2005 Members and Civilian Employees as well as Permanently Reassigned Members of the Armed Forces whose primary residence:

(A) Has suffered at least a 10% market impact zone home value loss between July 1, 2006 and date of application for Expanded HAP benefits for the county/parish/city in which their primary residence is located, and

(B) A decline of at least a 10% personal home value loss from the date of purchase to date of sale.

(ii) The Wounded, Injured, or Ill and surviving spouses do not need to show either type of minimum economic impact.

(2) *Timing of Purchase.* (i) BRAC 2005 Members and Civilian Employees must have purchased their primary residence before May 13, 2005, the date of the BRAC 2005 announcement.

(ii) Permanently reassigned members of the Armed Forces must have purchased their primary residence before July 1, 2006.

(iii) Wounded, injured, or ill or Surviving Spouses are eligible for compensation without respect to date of purchase.

(3) *Maximum Home Purchase Price.* The PFMV may not exceed an amount equal to the 2009 Fannie Mae/Freddie Mac conforming loan limits (as amended by the ARRA of 2009). These conforming loan limits range from $417,000 to $729,500. They apply for the duration of the Expanded HAP and are established for each city/county/parish as appropriate.

(4) *Date of Assignment; Report Date; Basis for Relocation.* (i) *Date of Assignment, Report Date.* (A) On May 13, 2005, BRAC 2005 Members and Civilian Employees must have been assigned to an installation or unit identified for closure or realignment under the 2005 round of the Base Realignment and Closure Act of 1990.

(B) For initial implementation, Permanently Reassigned Members of the Armed Forces must have received qualifying orders to relocate dated between February 1, 2006, and December 31, 2009. The orders must specify a report-no-later-than date of on or before February 28, 2010. These dates may be extended to September 30, 2012 at the discretion of the DUSD(I&E) based on availability of funds.

(ii) *Basis for Relocation:* Permanently Reassigned Members of the Armed Forces who are reassigned or who otherwise relocate for the following reasons are not eligible for Expanded HAP benefits:

(A). Members who retire prior to reaching their mandatory retirement date,

(B) Members who are a new accession into the Armed Forces or who are otherwise entering active duty,

(C) Members who are voluntarily separated or discharged,

(D) Members whose separation or discharge is characterized as less than honorable,

(E) Members who request and receive voluntary release from active duty (REFRAD),

(F) Members who are REFRAD for misconduct or poor performance.

(c) Applications will be processed according to eligibility category in the following order:

(1) *Wounded, Injured, and Ill.* Within this category, applications will generally be processed in chronological order of the wound, injury, or illness.

(2) *Surviving Spouses.* Within this category, applications will generally be processed in chronological order of the date of death of the member or employee.

(3) *BRAC 2005 Members and Civilian Employees.* Within this category, applications will generally be processed in chronological order of the date of job elimination.

(4) *Permanently Reassigned Members of the Armed Forces.* Within this category, applications will generally be processed beginning with the earliest report-not-later-than date of PCS orders.

§ 239.7. Responsibilities.

(a) The DUSD(I&E), under the authority, direction, and control of the USD(AT&L), shall, in relation to the Expanded HAP:

(1) Prescribe and monitor administrative and operational policies and procedures.

(2) Determine applicable personnel benefits and policies, in coordination with the Under Secretary of Defense (Comptroller) and the Under Secretary of Defense for Personnel and Readiness.

(3) Serve as senior appeals authority for appeals submitted by applicants.

(b) The Under Secretary of Defense (Comptroller) shall, in relation to the Expanded HAP:

(1) Implement policies and prescribe procedures for financial operations.

(2) Review and approve financial plans and budgets.

(3) Issue financing and obligation authorities.

(4) Administer the DoD Homeowners Assistance Fund.

(c) The Deputy Assistant Secretary of the Army for Installations and Housing (DASA(I&H)), as the DoD Executive Agent for administering, managing, and executing the Expanded HAP, shall:

(1) Establish detailed policies and procedures for execution of the program.

(2) Maintain necessary records, prepare reports, and conduct audits.

(3) Publish regulations and forms, subject to review by the DUSD(I&E).

(4) Disseminate information on the program.

(5) Forward copies of completed responses to congressional inquiries and appeals to the DUSD(I&E) for information.

(6) Serve as the initial approval authority for HAP appeals. The DASA(I&H) may approve appeals. The DASA(I&H) will forward recommendations for Expanded HAP denial to the DUSD(I&E) for decision.

(d) The Heads of the DoD Components and the Commandant of the Coast Guard, by agreement of the Secretary of Homeland Security, shall:

(1) Designate at least one representative at the headquarters level to work with DASA(I&H) and HQUSACE HAP offices.

(2) Require each installation to establish liaison with the nearest HAP field office to obtain guidance or assistance on the Expanded HAP.

(3) Supply the HQUSACE HAP office a copy of any internal regulation, instruction, or guidance published relative to the Expanded HAP program.

(4) Disseminate information on the Expanded HAP and, upon request, supply HAP field offices with data pertaining to the Expanded HAP.

(e) HQUSACE. (1) *Real Estate Community of Practice* (CEMP–CR). The Director of Real Estate, acting for the Chief of Engineers, has been delegated authority and responsibility for the execution of HAP. CEMP–CR, as the central office for HAP, is responsible for the following:

(i) Supervision, interagency coordination, development of procedures, policy guidance, and processing of appeals forwarded from the districts and HQUSACE Major Subordinate Commands (MSC).

(ii) Maintaining an Expanded HAP central office and Expanded HAP field offices.

(iii) Process appeal cases from the MSC where applicant agreement cannot be reached. Such appeal cases will be forwarded, in turn, to DASA(I&H) for consideration.

(2) *Districts.* Districts designated by the Director of Real Estate, and their Chiefs of Real Estate, have been delegated the authority to administer, manage and execute the HAP on behalf of all claimants.

(i) Districts (as identified in § 239.9) will accept applications (DD Form 1607) for HAP and Expanded HAP benefits.

(ii) Determine the eligibility of each applicant for Expanded HAP assistance using the criterion established by the DUSD(I&E).

(iii) Determine and advise each applicant on the most appropriate type of assistance.

(iv) Determine amounts to be paid, consistent with DoD policy, and make payments or authorize and arrange for acquisition or transfer of the applicant's property.

(v) Maintain, manage, and dispose of acquired properties or contract for such services with private contractors.

(vi) Process all cases, except where applicant agreement cannot be reached. Such appeal cases will be forwarded, in turn, to the MSC, CEMP–CR, and DASA(I&H) for consideration.

(3) *HQUSACE Major Subordinate Commands.* MSCs have been delegated the authority to perform oversight and review of district program management, and based upon that review, or in response to specific requests, to provide local policy guidance to the districts and recommend program changes or appeal cases to CEMP–CR for consideration.

§ 239.8. Funding.

(a) *Revolving Fund Account.* The revolving fund account contains money appropriated in accordance with the ARRA, and receipts from the management, rental, or sale of the properties acquired.

(b) *Appropriation, Receipts and Allocation.* Funds required for administration of the program will be made available by DoD to the HQUSACE. Funds provided will be used for purchase or reimbursement as provided herein and to defray expenses connected with the acquisition, management, and disposal of acquired properties, including payment of mortgages or other indebtedness, as well as the cost of staff services, contract services, insurance, and other indemnities.

(c) *Obligation of Funds.* For government acquisition of homes under the authority of this part, funds will be committed not to exceed 60 days following the date the government's offer to purchase is conveyed to the applicant. The obligation will occur upon timely receipt of the accepted offer returned by the applicant.

§ 239.9. Application Processing Procedures.

(a) *Acceptance of Applications.* The district will accept applications (DD Form 1607) for HAP and Expanded HAP benefits submitted through the single point of entry at *http://hap.usace.army.mil/.*

(b) *Application Form (DD Form 1607).* Should the DD form 1607 not provide all the information required to process Expanded HAP applications, Districts must provide applicants appropriate supplemental instructions.

(c) *Assignment of Application Numbers.* (1) *Assignment of Application Numbers.* When a district receives an application, it will assign the application number and develop and maintain an individual file for each property. Applications for programs located in another district will not be assigned a number, but will be forwarded immediately to the district having jurisdiction. An application number, once assigned, will not be reassigned regardless of the disposition of the original application. Reactivation or reopening of a withdrawn application does not require a new application or application number.

(2) *Method of Assignment.* An application will be numbered in the following manner:

(i) Agency code to indicate the Federal agency accountable for installation being closed or applicant support:

(A)1—Army.

(B)2—Air Force.

(C)3—Navy.

(D)4—Marine Corps.

(E)5—Defense Agencies.

(F)6—Non-Defense Agencies.

(G)7—U.S. Coast Guard.

(ii) District Code.

(A) Sacramento Dist.: L2.

(B) Savannah Dist.: K6.

(C) Fort Worth Dist.: M2.

(iii) Applicant Category Code (Military/Civilian/Wounded/Surviving Spouse/PCS):

(A)1 = Civilian (BRAC).

(B)2 = Military (BRAC).

(C)3 = Non-appropriated Fund Instrumentalities.

(D)4 = Military Wounded.

(E)5 = Civilian Wounded.

(F)6 = Surviving Spouse (military deceased).

(G)7 = Surviving Spouse (civilian employee deceased).

(F)8 = Military PCS.

(iv) *State:* State abbreviation.

(v) *Installation Number:* The five digit ZIP code of the applicant's present (former, if they have already moved) installation, office or unit address. Examples are:

(A) For a BRAC 05 applicant moving from the closing Saint Louis, MO, DFAS office to Minneapolis, MN, use the ZIP code of the city from which he or she is moving, *e.g.,* 63101, for St. Louis, MO.

(B) For wounded warrior or surviving spouse who moved from primary residence, use present installation or hometown.

(C) For service members who are eligible based on PCS criteria, use ZIP code of installation from which they depart.

(vi) *Application Number:* Sequential beginning with 0001.

EXAMPLE 1:

2 K6 2 NH 0 3 8 0 3 0 0 0 1

Air Force
Mil
BRAC
SAS
Dist
NH
Applicant #
Pease AFB

EXAMPLE 2:

1 K6 4 NY 1 3 6 0 2 0 0 0 2

Army
Mil
Wounded
SAS
Dist
NY
Applicant #
Ft Drum

(d) *Real Estate Values.* (1) Because the PFMV is the purchase price for Expanded HAP, no appraisal of the property is required. Supporting documentation to establish purchase price must be furnished by the applicant. Generally, Form HUD–1 will suffice.

(2) Districts are responsible for ensuring primary residence values are appropriate and applicants receive deserved benefit payments.

(i) *Trend indications of applicants' county, city or parish:* HQUSACE subscribes the CoreLogic real estate value database system. Districts will use the CoreLogic trend report to determine the eligibility of an applicant's county, city, or parish.

(ii) *Valuation of Individual Primary Residences:* Run CoreLogic AVM on an applicant's primary residence.

§ 239.10. Management Controls.

(a). *Management Systems.* Headquarters, USACE has an existing information management system that manages all information related to the HAP program.

(1) *HAPMIS.* The Homeowners Assistance Program Management Information System (HAPMIS) provides program management assistance to field offices and indicators to managers at field offices, regional headquarters and HQUSACE at the Service Member level of detail. The Privacy Act applies to this program and the management in formation system to protect the privacy information of Expanded HAP applicants.

(2) *CEFMS.* The Corps of Engineers Financial Management System (CEFMS) will provide detailed funds execution and tracking, to include:

(i) Funds issued to field offices for execution accountability.

(ii) Funds committed and obligated by applicant category, installation, State and county.

(b) *System of Records Notice (SORN).* The Privacy Act limits agencies to maintaining ''only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or Executive order of the President.'' 5 U.S.C. 552a(e)(1). The SORN for the Homeowners Assistance Program can be found at *http://www.defenselink.mil/privacy/notices/army/A0405-10q_CE.shtml.* The Privacy Impact Assessment for the system can be reviewed at: *http://www.army.mil/ciog6/privacy.html.*

Individuals seeking to determine whether information about them is contained in this system should address written inquiries to the Chief of Engineers, Headquarters U.S. Army Corps of Engineers, ATTN: CERE–R, 441 G Street, NW., Washington, DC 20314–1000.

§ 239.11. Appeals.

Applicant appeals will be processed at the District level and forwarded through the MSC, CEMP–CR to the DASA(I&H) for review and consideration. DASA(I&H) may approve an appeal but must forward recommendations for denial to the DUSD(I&E) for decision.

§ 239.12. Tax Documentation.

For disbursed funds, tax documents will be certified by HQUSACE Finance Center, and distributed to applicants

and the Internal Revenue Service (IRS) on an annual basis.

§ 239.13. Program Performance Reviews.

HQUSACE will prepare monthly program performance reviews using the Homeowners Assistance Program Management Information System; HQUSACE Annual Management Command Plan and Management Control Checklist. In addition, program monitoring will also be conducted (through HAPMIS and CEFMS reports) at the Headquarters Department of the Army and at the DUSD(I&E) levels.

§ 239.14. On-Site Inspections.

The HQUSACE and MSCs may conduct periodic on-site inspections of district offices and monitor program execution through HAPMIS and CEFMS reports.

§ 239.9. List of HAP field offices.

Homeowners Assistance Program field offices that process HAP applications for installations and applicants located in the State indicated. Questions should be directed to the field office listed within the State applicable to the installation.

Field office	For installations located in
U.S. Army Engineer District, Sacramento, CESPK, 1325 J Street, Sacramento, CA 95814–2922. (916) 557–6850 or 1–800–811–5532. Internet Address: *http://www.spk.usace.army.mil*.	Alaska, Arizona, California, Nevada, Utah, Idaho, Oregon, Pacific Ocean Rim, Washington, Montana and Hawaii.
U.S. Army Engineer District, Savannah, CESAS, ATTN: RE–AH, P.O. Box 889, Savannah, GA 31402–0889. 1–800–861–8144. Internet Address: *http://www.sas.usace.army.mil/hapinv/index.html*.	Georgia, North Carolina, South Carolina, Alabama, Mississippi, Tennessee, Florida, Illinois, Indiana, Kentucky, Michigan, Ohio, Maryland, Delaware, District of Columbia, Pennsylvania, Virginia, Rhode Island, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Maine, New Jersey, West Virginia and Europe.
U.S. Army Engineer District, Fort Worth, CESWF, P.O. Box 17300, Fort Worth, TX 76102–0300. (817) 886–1112. 1–888–231–7751. Internet Address: *http://www.swf.usace.army.mil*.	Arkansas, Louisiana, Oklahoma, Texas, New Mexico, Colorado, Iowa, Nebraska, Michigan, Minnesota, North and South Dakota, Wisconsin, Wyoming, Kansas and Missouri.

HAP Central Office, Homeowners Assistance Program, Real Estate Directorate, Military Division, 441 G Street, NW., Washington, DC 20314–1000.

Dated: September 23, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23418 Filed 9–29–09; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2004–0014; FRL–8937–8]

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of grant of reconsideration and administrative stay of regulation.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is providing notice that through a letter signed by the Administrator on April 24, 2009, EPA granted a petition for reconsideration of the final rule titled, ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions,'' published on December 19, 2008 (Fugitive Emissions Rule). EPA's decision to reconsider was in response to a request made by Natural Resources Defense Council (NRDC) in a letter dated February 17, 2009.

DATES: The amendments to 40 CFR parts 51 and 52 in this rule are effective from September 30, 2009 through December 30, 2009. Effective September 30, 2009, the following CFR sections are administratively stayed until December 30, 2009: 40 CFR 51.165(a)(1)(v)(G), (a)(1)(vi)(C)(*3*), (a)(1)(ix), (a)(1)(xxviii)(B)(*2*), (a)(1)(xxviii)(B)(*4*), (a)(1)(xxxv)(A)(*1*), (a)(1)(xxxv)(B)(*1*), (a)(1)(xxxv)(C), (a)(1)(xxxv)(D), (a)(2)(ii)(B), (a)(6)(iii), (a)(6)(iv), and (f)(4)(i)(D); 40 CFR 51.166, (a)(7)(iv)(*b*), (b)(2)(v), (b)(3)(iii)(*c*), (b)(3)(iii)(*d*), (b)(20), (b)(40)(ii)(*b*), (b)(40)(ii)(*d*), (b)(47)(i)(*a*), (b)(47)(ii)(*a*), (b)(47)(iii), (b)(47)(iv), (r)(6)(iii) and (r)(6)(iv), and (w)(4)(i)(*d*); 40 CFR part 51, Appendix S, paragraphs II.A.5(vii), II.A.6(iii), II.A.9, II.A.24(ii)(*b*), II.A.24(ii)(*d*), II.A.30(i)(*a*), II.A.30(ii)(*a*), II.A.30(iii), II.A.30(iv), IV.I.1(ii), IV.J.3, IV.J.4, and IV.K.4(i)(*d*); and 40 CFR 52.21, (a)(2)(iv)(*b*), (b)(2)(v), (b)(3)(iii)(*b*), (b)(3)(iii)(*c*), (b)(20), (b)(41)(ii)(*b*), (b)(41)(ii)(*d*), (b)(48)(i)(*a*), (b)(48)(ii)(*a*), (b)(48)(iii), (b)(48)(iv), (r)(6)(iii), (r)(6)(iv), and (aa)(4)(i)(*d*).

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Wheeler, Air Quality Policy Division, (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711; telephone number: (919) 541–9771; or e-mail address: *wheeler.carrie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background Information

In addition to granting the petition for reconsideration in the April 24, 2009 letter, EPA indicated that it was administratively staying the rule for three months from the date of the letter. Since the initial decision to grant the stay, EPA has learned that under the present circumstances and in accordance with the Office of Federal Register's regulations, the effective date of the administrative stay of the Fugitive Emissions Rule must be a date on or after publication of notice announcing the stay in the **Federal Register**. As a result, EPA is announcing that the corrected effective date of the stay is the date of publication of this notice. This stay of the Fugitives Emissions Rule will be effective for a period of three months beginning with the publication of this document in the **Federal Register**. To effectuate this stay of the December 19, 2008 rule, we are reinstating previous provisions on a temporary basis. The EPA will publish a document in the **Federal Register** establishing a comment period and opportunity for a public hearing for the reconsideration proceeding.

The petition for reconsideration and request for administrative stay can be found in the docket for the December 19, 2008 rule. EPA's April 24, 2009 letter responding to NRDC's request for reconsideration is also in the docket. EPA considered the petition for reconsideration and request for stay, along with information contained in the rulemaking docket, in reaching a decision on both the reconsideration

and the stay of the Fugitives Emissions Rule.

II. How Can I Get Copies of This Document and Other Related Information?

This **Federal Register** document, the petition for reconsideration and the letter granting reconsideration and an administrative stay of the effectiveness of the Fugitive Emissions Rule are available in the docket for the final rule titled ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions,'' published on December 19, 2008 at 73 FR 77882, under Docket ID No. EPA–HQ–OAR–2004–0014. The table below identifies the petitioner, the date EPA received the petition, the document identification number for the petition, the date of EPA's response, and the document identification number for EPA's response.

Petitioner	Date of petition to EPA	Petition: Document No. in docket	Date of EPA response	EPA response: Document No. in docket
Natural Resources Defense Council	2/17/2009	0060	4/24/2009	0062

Note that all document numbers listed in the table are in the form of ''EPA–HQ–OAR–2004–0014–xxxx.''

All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Docket ID No. EPA–HQ–OAR–2004–0014, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

In addition to being available in the docket, an electronic copy of this **Federal Register** notice and EPA's response letter to the petitioners are also available on the World Wide Web at *http://www.epa.gov/nsr*.

III. Judicial Review

Under Clean Air Act section 307(b), judicial review of the Agency's decision concerning the stay is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before November 30, 2009.

Dated: July 24, 2009.

Lisa P. Jackson,

Administrator.

■ For the reasons discussed in the preamble, the EPA amends 40 CFR parts 51 and 52 as follows:

PART 51—[AMENDED]

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

§ 51.165 [Amended]

■ 2. Effective September 30, 2009, 40 CFR 51.165(a)(1)(v)(G), (a)(1)(vi)(C)(*3*), (a)(1)(ix), (a)(1)(xxviii)(B)(*2*), (a)(1)(xxviii)(B)(*4*), (a)(1)(xxxv)(A)(*1*), (a)(1)(xxxv)(B)(*1*), (a)(1)(xxxv)(C), (a)(1)(xxxv)(D), (a)(2)(ii)(B), (a)(6)(iii), (a)(6)(iv), and (f)(4)(i)(D) are administratively stayed until December 30, 2009.

■ 3. Effective September 30, 2009 through December 30, 2009, amend 40 CFR 51.165 to add paragraph (a)(4) to read as follows:

§ 51.165 Permit requirements.

(a) * * *

(4) Each plan may provide that the provisions of this paragraph do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emission to the extent quantifiable are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or citric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(xxvii) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

* * * * *

§ 51.166 [Amended]

■ 4. Effective September 30, 2009, 40 CFR 51.166 (a)(7)(iv)(*b*), (b)(2)(v), b)(3)(iii)(*c*), (b)(3)(iii)(*d*), (b)(20), (b)(40)(ii)(*b*), (b)(40)(ii)(*d*), (b)(47)(i)(*a*), (b)(47)(ii)(*a*), (b)(47)(iii), (b)(47)(iv), (r)(6)(iii) and (r)(6)(iv), and (w)(4)(i)(*d*) are administratively stayed until December 30, 2009.

5. Effective September 30, 2009 through December 30, 2009, amend 40 CFR 51.166 to add paragraph (i)(l)(ii) to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * * *

(i) * * *

(1) * * *

(ii) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any following categories:

(*a*) Coal cleaning plants (with thermal dryers);

(*b*) Kraft pulp mills;

(*c*) Portland cement plants;

(*d*) Primary zinc smelters;

(*e*) Iron and steel mills;

(*f*) Primary aluminum ore reduction plants;

(*g*) Primary copper smelters;

(*h*) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(*i*) Hydrofluoric, sulfuric, or nitric acid plants;

(*j*) Petroleum refineries;

(*k*) Lime plants;

(*l*) Phosphate rock processing plants;

(*m*) Coke oven batteries;

(*n*) Sulfur recovery plants;

(*o*) Carbon black plants (furnace process);

(*p*) Primary lead smelters;

(*q*) Fuel conversion plants;

(*r*) Sintering plants;

(*s*) Secondary metal production plants;

(*t*) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(*u*) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(*v*) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(*w*) Taconite ore processing plants;

(*x*) Glass fiber processing plants;

(*y*) Charcoal production plants;

(*z*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(*aa*) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act; or

* * * * *

Appendix S to 40 CFR Part 51 [Amended]

■ 6. Effective September 30, 2009, 40 CFR part 51, Appendix S, paragraphs II.A.5(vii), II.A.6(iii), II.A.9, II.A.24(ii)(*b*), II.A.24(ii)(*d*), II.A.30(i)(*a*), II.A.30(ii)(*a*), II.A.30(iii), II.A.30(iv), IV.I.1(ii), IV.J.3, IV.J.4, and IV.K.4(i)(*d*) are administratively stayed until December 30, 2009.

■ 7. Effective September 30, 2009 through December 30, 2009, amend Appendix S to part 51 to add II.F to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

* * * * *

II. * * *

F. *Fugitive emission sources.* Section IV. A. of this Ruling shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any following categories:

(1) Coal cleaning plants (with thermal dryers);

(2) Kraft pulp mills;

(3) Portland cement plants;

(4) Primary zinc smelters;

(5) Iron and steel mills;

(6) Primary aluminum ore reduction plants;

(7) Primary copper smelters;

(8) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(9) Hydrofluoric, sulfuric, or nitric acid plants;

(10) Petroleum refineries;

(11) Lime plants;

(12) Phosphate rock processing plants;

(13) Coke oven batteries;

(14) Sulfur recovery plants;

(15) Carbon black plants (furnace process);

(16) Primary lead smelters;

(17) Fuel conversion plants;

(18) Sintering plants;

(19) Secondary metal production plants;

(20) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(23) Taconite ore processing plants;

(24) Glass fiber processing plants;

(25) Charcoal production plants;

(26) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(27) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

* * * * *

PART 52—[AMENDED]

■ 8. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

§ 52.21 [Amended]

■ 9. Effective September 30, 2009, 40 CFR 52.21 (a)(2)(iv)(*b*), (b)(2)(v), (b)(3)(iii)(*b*), (b)(3)(iii)(*c*), (b)(20), (b)(41)(ii)(*b*), (b)(41)(ii)(*d*), (b)(48)(i)(*a*), (b)(48)(ii)(*a*), (b)(48)(iii), (b)(48)(iv), (r)(6)(iii), (r)(6)(iv), and (aa)(4)(i)(*d*), December 30, 2009.

■ 10. Effective September 30, 2009 through December 30, 2009, amend 40 CFR 52.21 to add (i)(l)(vii) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(i) * * *

(1) * * *

(vii) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(*a*) Coal cleaning plants (with thermal dryers);

(*b*) Kraft pulp mills;

(*c*) Portland cement plants;

(*d*) Primary zinc smelters;

(*e*) Iron and steel mills;

(*f*) Primary aluminum ore reduction plants;

(*g*) Primary copper smelters;

(*h*) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(*i*) Hydrofluoric, sulfuric, or nitric acid plants;

(*j*) Petroleum refineries;

(*k*) Lime plants;

(*l*) Phosphate rock processing plants;

(*m*) Coke oven batteries;

(*n*) Sulfur recovery plants;

(*o*) Carbon black plants (furnace process);

(*p*) Primary lead smelters;

(*q*) Fuel conversion plants;

(*r*) Sintering plants;

(*s*) Secondary metal production plants;

(*t*) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(*u*) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(*v*) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(*w*) Taconite ore processing plants;

(*x*) Glass fiber processing plants;

(*y*) Charcoal production plants;

(*z*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(*aa*) Any other stationary source category which, as of August 7, 1980, is

being regulated under section 111 or 112 of the Act; or

* * * * *

[FR Doc. E9–23503 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NH–041–7013a; A–1–FRL–8955–9]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of its regulations for materials submitted by the State of New Hampshire that are incorporated by reference (IBR) into its State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by New Hampshire and approved by EPA.

DATES: *Effective Date:* This rule is effective on September 30, 2009.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

An electronic copy of the New Hampshire regulations we have approved for incorporation into the SIP are also available by accessing *http://www.epa.gov/ne/topics/air/sips.html.* A hard copy of the regulatory and source-specific portions of the compilation will also be maintained at the Air and Radiation Docket and Information Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460 and the National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Donald O. Cooke, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1668, fax number (617) 918–0668, e-mail *cooke.donald@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Change of IBR Format

This format revision will affect the ''Identification of plan'' section of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA); the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA New England Regional Office.

A. Description of a SIP

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS) and achieve certain other Clean Air Act (Act) requirements (*e.g.,* visibility requirements and prevention of significant deterioration). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network descriptions, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces the SIP

Each SIP revision submitted by New Hampshire must be adopted at the state level after undergoing reasonable notice and opportunity for public comment. SIPs submitted to EPA to attain or maintain the NAAQS must include enforceable emission limitations and other control measures, schedules and timetables for compliance.

EPA evaluates submitted SIPs to determine if they meet the Act's requirements. If a SIP meets the Act's requirements, EPA will approve the SIP. EPA's notice of approval is published in the **Federal Register** and the approval is then codified in the Code of Federal Regulations (CFR) at 40 CFR part 52. Once EPA approves a SIP, it is enforceable by EPA and citizens in Federal district court.

We do not reproduce in 40 CFR part 52 the full text of the New Hampshire regulations that we have approved; instead, we incorporate them by reference (''IBR''). We approve a given state regulation with a specific effective date and then refer the public to the location(s) of the full text version of the state regulation(s) should they want to know which measures are contained in a given SIP (see ''I.F. Where You Can Find a Copy of the SIP Compilation'').

C. How the State and EPA Update the SIP

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations.

On May 22, 1997 (62 FR 27968), EPA announced revised procedures for incorporating by reference federally approved SIPs. The procedures announced included: (1) A new process for incorporating by reference material submitted by states into compilations and a process for updating those compilations on roughly an annual basis; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the compilations and the CFR; and (3) a revised format for the ''Identification of plan'' sections for each applicable subpart to reflect these revised IBR procedures.

D. How EPA Compiles the SIP

We have organized into a compilation the federally-approved regulations, source-specific requirements and nonregulatory provisions we have approved into the SIP. We maintain hard copies of the compilation in

binders and we primarily update these binders on an annual basis.

E. How EPA Organizes the SIP Compilation

Each compilation contains three parts. Part one contains the state regulations, part two contains the source-specific requirements that have been approved as part of the SIP (if any), and part three contains nonregulatory provisions that we have approved. Each compilation contains a table of identifying information for each regulation, each source-specific requirement, and each nonregulatory provision. The state effective dates in the tables indicate the date of the most recent revision to a particular regulation. The table of identifying information in the compilation corresponds to the table of contents published in 40 CFR part 52 for the state. The EPA Regional Offices have the primary responsibility for ensuring accuracy and updating the compilations.

F. Where You Can Find a Copy of the SIP Compilation

EPA New England developed and will maintain a hard copy of the compilation for New Hampshire. An electronic copy of the New Hampshire regulations we have approved are available on the following Web site: *http://www.epa.gov/ne/topics/air/sips.html.* A hard copy of the regulatory and source-specific portions of the compilation will also be maintained at the Air and Radiation Docket and Information Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460; and National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA has revised the organization of the ''Identification of plan'' section in 40 CFR part 52 and included additional information to clarify the elements of the SIP.

The revised Identification of plan section for New Hampshire contains five subsections:

1. Purpose and scope (see 40 CFR 52.1520(a));

2. Incorporation by reference (see 40 CFR 52.1520(b));

3. EPA-approved regulations (see 40 CFR 52.1520(c));

4. EPA-approved source-specific requirements (see 40 CFR 52.1520(d)); and

5. EPA-approved nonregulatory provisions such as transportation control measures, statutory provisions, monitoring networks, etc. (see 40 CFR 52.1520(e)).

H. When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP are federally enforceable as of the effective date of EPA's approval of the respective revisions. In general, SIP revisions become effective 30 to 60 days after publication of EPA's SIP approval action in the **Federal Register.** In specific cases, a SIP revision action may become effective less than 30 days or greater than 60 days after the **Federal Register** publication date. In order to determine the effective date of EPA's approval for a specific New Hampshire SIP provision that is listed in paragraph 40 CFR 52.1520 (c), (d), or (e), consult the volume and page of the **Federal Register** cited in the ''EPA approval date'' column of 40 CFR 52.1520 for that particular provision.

I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and to provide a smooth transition to the new SIP processing system, we are retaining the original Identification of plan section (see 40 CFR 52.1535). This section previously appeared at 40 CFR 52.1520. After an initial two-year period, we will review our experience with the new table format and will decide whether or not to retain the original Identification of plan section (40 CFR 52.1535) for some further period.

II. What EPA Is Doing in This Action

Today's action constitutes a ''housekeeping'' exercise to reformat the codification of the EPA-approved New Hampshire SIP.

III. Good Cause Exemption

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon a finding of ''good cause,'' authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's action simply reformats the codification of provisions which are already in effect as a matter of law.

Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Likewise, there is no purpose served by delaying the effective date of this action.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; thus

the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules is discussed in previous actions taken on the State's rules.

B. Submission to Congress and the Comptroller General

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply reformats the codification of provisions which are already in effect as a matter of law, 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of September 30, 2009. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. These corrections to the Identification of plan for New Hampshire is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the New Hampshire SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need to reopen the 60-day period for filing such petitions for judicial review for this reorganization of the ''Identification of plan'' section of 40 CFR 52.1520 for New Hampshire.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 2, 2009.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

■ Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

■ 1. The authority for citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart EE—New Hampshire

§ 52.1520 [Redesignated as § 52.1535]

■ 2. Section 52.1520 is redesignated as § 52.1535 and the section heading and paragraph (a) are revised to read as follows:

§ 52.1535 Original identification of plan section.

(a) This section identifies the original ''Air Implementation Plan for the State of New Hampshire'' and all revisions submitted by New Hampshire that were federally approved prior to August 18, 2009.

* * * * *

■ 3. A new § 52.1520 is added to read as follows:

§ 52.1520 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State Implementation Plan for New Hampshire under section 110 of the Clean Air Act, 42 U.S.C. 7410 and 40 CFR part 51 to meet national ambient air quality standards or other requirements under the Clean Air Act.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to August 18, 2009, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as submitted by the state to EPA, and notice of any change in the material will be published in the **Federal Register**. Entries for paragraphs (c) and (d) of this section with EPA approval dates after August 18, 2009, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of August 18, 2009.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023; Air and Radiation Docket and Information Center, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460; and the National Archives and Records Administration (NARA). If you wish to obtain materials from the EPA Regional Office, please call (617) 918–1668; for materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket at (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA approved regulations.*

EPA-APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date[1]	Explanations
Env-A 100	Organizational Rules: Definitions.	12/24/1990	8/14/1992, 57 FR 36603	Sections Env-A 101.21; .27; .33; .51; .53; .58; .63; .98; and Parts Env-A 102 and 103 are not part of the approved SIP.
Env-A 200	Procedural Rules	7/23/2001	10/28/2002, 67 FR 65710	Parts Env-A 206; 208; and Sections Env-A 209.01 through 209.04 are not part of the approved SIP.
Env-A 300	Ambient Air Quality Standards	4/21/1989	8/19/1994, 59 FR 42766	Part Env-A 304 is not part of the approved SIP.
Env-A 400	Sulfur Content Limits in Fuels	12/24/1990	8/14/1992, 57 FR 36603	Section Env-A 405.05 (c) and (d); and Part Env-A 406 are not part of the SIP.
Env-A 600	Statewide Permit System	7/23/2001	10/28/2002, 67 FR 65710	Sections Env-A 603.02(p), 603.03(f) and 603.03(g) are not part of the SIP. Parts Env-A 615 through 621 are not part of the SIP. Sections Env-A 622.01(a)(2)(a) and 622.01(a)(2)(b); 622.03; 622.04(a) through 622.04(c); 622.05; 622.07 and 623.02 are not part of the SIP.
Env-A 700	Permit Fee System	12/24/1990	8/14/1992, 57 FR 36603	Approved Parts Env-A 701 through 705.
Env-A 800	Testing and Monitoring Procedures.	8/21/1995	3/10/1998, 63 FR 11600	Approved Parts Env-A 801 through 807.
Env-A 900	Owner or Operator Obligations.	8/21/1995	3/10/1998, 63 FR 11600	Approved Sections Env-A 901 through 903.
Env-A 1000	Prevention, Abatement, and Control of Open Source Air Pollution.	5/19/1989	8/19/1994, 59 FR 42766	Approved Part Env-A 1001.
Env-A 1200	Prevention, Abatement, and Control of Stationary Source Air Pollution.	8/21/1995	7/23/2002, 67 FR 48033	Approved Parts Env-A 1201 through 1208; and 1211. Approval of 1201.05 shall not be construed to supersede New Source Performance Standards; National Emission Standards for Hazardous Air Pollutants; and the regulations controlling emissions from major new or modified stationary sources in attainment and non-attainment areas.
Env-A 1500	Conformity of General Federal Actions.	4/19/1996	8/16/1999, 64 FR 44417	Approved Part Env-A 1502.
Env-A 3200	NOx Budget Trading Program	7/27/1998	11/14/2000, 65 FR 68078	Approved Parts Env-A 3201 through 3218.
Env-A 3600	National Low Emission Vehicle (National LEV) Program.	7/21/1999	3/9/2000, 65 FR 12476	Approved Parts Env-A 3601 through 3603
NHCAR, Part Saf-C 3221A	Emission Amendments to Official Motor Vehicle Inspection Requirements..	11/17/1998	1/10/2001, 66 FR 1868	Part Saf-C 3221A ''Emission Amendments to Official Motor Vehicle Inspection Requirements'' adopted on November 17, 1998.
NHCAR, Part Saf-C 5800	Roadside Diesel Opacity Inspection Program Rules.	11/17/1998	1/10/2001, 66 FR 1868	Part Saf-C 5800 ''Roadside Diesel Opacity Inspection Program Rules'' adopted on November 17, 1998.

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(d) EPA-approved State Source specific requirements.

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date [2]	Additional explanations/ § 52.1535 citation
The James River—Berlin/Gorham, Inc. Berlin, NH.	.....	5/2/1984	9/27/1984, 49 FR 38104	See 52.1535(c)(33). Administrative order issued May 2, 1984 to the James River Corporation.
Operating limits for boilers at Dartmouth College.	Permit Number PO–B–1501, condition 5.	1/6/1986	2/2/1987, 52 FR 3117	See 52.1535(c)(35).
Operating limits for boilers at Dartmouth College.	Permit Number PO–B–1502, condition 5.	1/6/1986	2/2/1987, 52 FR 3117	See 52.1535(c)(35).
Operating limits for boilers at Dartmouth College.	Permit No. PO–B–1503, condition 5.	1/6/1986	2/2/1987, 52 FR 3117	See 52.1535(c)(35).
Operating limits for boilers at Dartmouth College.	Temporary Permit TP–B–150, condition 2, 3 and 4.	1/6/1986	2/2/1987, 52 FR 3117	See 52.1535(c)(35).
The James River Corporation, Groveton, NH.	Permit Number PO–B–1550, Conditions 5B, 5C, and 5D.	9/6/1985	12/14/1987, 52 FR 47392	See 52.1535(c)(38). The air permit conditions limit sulfur-in-fuel content to 2.2% sulfur by weight at the James River Corporation, Groveton, NH.
The James River Corporation, Groveton, NH.	Permit Number PO–B–213, Conditions 2 and 5A.	9/6/1985	12/14/1987, 52 FR 47392	See 52.1535(c)(38). The air permit conditions limit sulfur-in-fuel content to 2.2% sulfur by weight at the James River Corporation, Groveton, NH.
The James River Corporation, Groveton, NH.	Permit No. PO–B–214, Conditions 2 and 5A.	9/6/1985	12/14/1987, 52 FR 47392	See 52.1535(c)(38). The air permit conditions limit sulfur-in-fuel content to 2.2% sulfur by weight at the James River Corporation, Groveton, NH.
The James River Corporation, Groveton, NH.	Permit No. PO–B–215, Conditions 2 and 5A.	9/6/1985	12/14/1987, 52 FR 47392	See 52.1535(c)(38). The air permit conditions limit sulfur-in-fuel content to 2.2% sulfur by weight at the James River Corporation, Groveton, NH.
The James River Corporation, Groveton, NH.	Permit No. PO–BP–2240, Condition 5B.	9/6/1985	12/14/1987, 52 FR 47392	See 52.1535(c)(38). The air permit conditions limit sulfur-in-fuel content to 2.2% sulfur by weight at the James River Corporation, Groveton, NH.
Source specific NO_X RACT order for Groveton Paperboard Corp., Groveton, NH.	Order ARD–95–001	5/10/1995	4/9/1997, 62 FR 17087	See 52.1535(c)(50).
Source specific NO_X RACT order for Plymouth Cogeneration Ltd. Partnership, Plymouth, NH.	Order ARD–95–002	9/12/1995	4/9/1997, 62 FR 17087	See 52.1535(c)(50).
Source specific NO_X RACT order for Waterville Valley Ski Area Ltd., Waterville Valley, NH.	Order ARD–95–003	9/19/1995	4/9/1997, 62 FR 17087	See 52.1535(c)(50).
VOC RACT for L.W. Packard and Company, Inc. Ashland, NH.	Order ARD–94–001	5/5/1995	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
VOC RACT for Kalwall Corporation, Manchester, NH.	Order ARD–95–010	9/10/1996	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
VOC RACT for Textile Tapes Corporation, Gonic, NH.	Order ARD–96–001	10/4/1996	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
Source specific NO_X RACT order for Public Service of New Hampshire, Bow, NH.	Order ARD–97–001	4/14/1997	5/13/1998, 63 FR 26455	See 52.1535(c)(54).
Source specific NO_X RACT order for Hampshire Chemical Corporation, Nashua, NH.	Order ARD–95–011	5/6/1997	5/13/1998, 63 FR 26455	See 52.1535(c)(54).
Source specific NO_X RACT order for Crown Vantage, Berlin, NH.	Order ARD–97–003	9/24/1997	5/13/1998, 63 FR 26455	See 52.1535(c)(54).

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State effective date	EPA approval date [2]	Additional explanations/ § 52.1535 citation
Source-specific NO_X RACT order and discrete emission reduction protocols for Public Service of New Hampshire.	Order ARD–98–001	7/17/1998	11/14/2000, 65 FR 68078	See 52.1535(c)(64).
VOC RACT for Anheuser-Busch, Merrimack, NH.	Order ARD–00–001	4/15/2002	7/23/2002, 67 FR 48033	See 52.1535(c)(68).

[2] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(e) Nonregulatory.

NEW HAMPSHIRE NONREGULATORY

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date [3]	Explanations
"State of New Hampshire Implementation Plan".	Statewide	1/27/1972	5/31/1972, 37 FR 10842	The plan was officially submitted on January 27, 1972.
Miscellaneous non-regulatory additions to the plan correcting minor deficiencies.	Statewide	2/23/1972	7/27/1972, 37 FR 15080	See 52.1535(c)(1).
Non-regulatory provisions for retention and availability of air quality data.	Statewide	3/23/1972	7/27/1972, 37 FR 15080	See 52.1535(c)(2).
Attainment dates of national primary and secondary air quality standards.	Statewide	8/8/1972	9/22/1972, 37 FR 19806	See 52.1535(c)(3).
Compliance schedules	Statewide	2/14/1973	6/20/1973, 38 FR 16144	See 52.1535(c)(5).
Compliance schedules	Statewide	3/22/1973	6/20/1973, 38 FR 16144	See 52.1535(c)(6).
Revision exempting steam locomotives from the plan.	Statewide	4/3/1973	12/14/1973, 38 FR 34476	See 52.1535(c)(7).
AQMA identification material	Statewide	5/20/1974	6/2/1975, 40 FR 23746	See 52.1535(c)(9).
Attainment plans to meet the requirements of Part D for carbon monoxide for Metropolitan Manchester and ozone for AQCR 121, programs for the review of construction and operation of new and modified major stationary sources of pollution in both attainment and non-attainment areas and certain miscellaneous provisions.	Statewide	5/29/1979	4/11/1980, 45 FR 24869	See 52.1535(c)(12).
November 6, 1979 letter from New Hampshire Assistant Attorney General.	Statewide	11/6/1979	4/11/1980, 45 FR 24869	See 52.1535(c)(12).
March 17, 1980 letter addressing external emission offsets.	Statewide	3/17/1980	4/11/1980, 45 FR 24869	See 52.1535(c)(12).
Attainment plans to meet the requirements of Part D for total suspended particulates and sulfur dioxide in Berlin, NH.	Areas designated non-attainment for one or more pollutants.	9/19/1979	6/23/1980, 45 FR 41942	See 52.1535(c)(13).
A plan to provide comprehensive public participation and an analysis of the effects of the New Hampshire 1979 SIP revisions.	Statewide	2/28/1980	9/9/1980, 45 FR 59313	See 52.1535(c)(15).
A comprehensive air quality monitoring plan, intended to meet requirements of 40 CFR Part 58.	Statewide	1/30/80	12/18/1980, 45 FR 83227	See 52.1535(c)(17).

NEW HAMPSHIRE NONREGULATORY—Continued

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date [3]	Explanations
A plan to attain and maintain the National Ambient Air Quality Standard for lead and to amend the state's air quality standards.	Statewide	4/15/1980	7/15/1981, 46 FR 36699	See 52.1535(c)(18).
A letter further explaining the state procedures for review of new major sources of lead emissions and confirming the use of reference methods.	Statewide	12/9/1980	7/15/1981, 46 FR 36699	See 52.1535(c)(18).
Revisions to meet the requirements of Part D and certain other sections of the Clean Air Act, as amended, for attaining carbon monoxide standards in the City of Manchester.	City of Manchester	1/12/1981	1/7/1982, 47 FR 763	See 52.1535(c)(19). These revisions supplement the 1979 CO attainment plan.
Revision to the January 12, 1981 CO Attainment Plan for Manchester, NH.	City of Manchester	2/18/1981	1/7/1982, 47 FR 763	See 52.1535(c)(19).
Carbon monoxide attainment plan revisions for the City of Manchester which meet the requirements of Part D of the Act for 1982 SIP revisions.	City of Manchester	10/5/1982	6/27/1983, 48 FR 29479	See 52.1535 (c)(23).
Revision to the October 5, 1982 CO Attainment Plan for Manchester, NH.	City of Manchester	12/20/1982	6/27/1983, 48 FR 29479	See 52.1535(c)(23).
The TSP Plan to attain primary standards in Berlin, New Hampshire.	Berlin, NH	5/9/1984	9/27/1984, 49 FR 38104	See 52.1535(c)(33).
Letter from the New Hampshire Air Resources Commission submitting revisions to the SIP.	Statewide	4/26/1985	9/17/1987, 52 FR 35081	See 52.1535(c)(37).
Letter interpreting NH's regulation for Continuous Emission Monitoring Systems.	Statewide	1/20/1986	9/17/1987, 52 FR 35081	See 52.1535(c)(37).
NH Letter of intent to implement applicable emission limits required by EPA's New Source Performance Standard (NSPS).	Statewide	5/12/1987	9/17/1987, 52 FR 35081	See 52.1535(c)(37).
Letter submitting a revision to the CO Attainment Plan for the City of Nashua, NH.	Nashua and 11 surrounding towns.	9/12/1985	8/25/1988, 53 FR 32391	See 52.1535(c)(39). Attainment plans for carbon monoxide for the City of Nashua including an extension of the attainment date to December 31, 1990.
Narrative submittals, including an attainment demonstration for carbon monoxide for the City of Nashua.	Nashua and 11 surrounding towns.	2/26/1985	8/25/1988, 53 FR 32391	See 52.1535(c)(39).
Letter identifying extensions to the Nashua intersection-specific measures (Build I).	Nashua and 11 surrounding area.	12/3/1985	8/25/1988, 53 FR 32391	See 52.1535(c)(39).
Letter submitting final motor vehicle emissions inspection (I&M) program for the Nashua, NH area.	Nashua and 11 surrounding towns.	10/7/1986	8/25/1988, 53 FR 32391	See 52.1535(c)(39).

NEW HAMPSHIRE NONREGULATORY—Continued

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date [3]	Explanations
Letter from Governor John H. Sununu to Michael R. Deland committing to take legislative measures to convert the Inspection/Maintenance program in the Nashua area to the use of computerized emission analyzers in the event that the program is found to not be achieving the necessary emission reductions.	Nashua and 11 surrounding towns.	3/6/1987	8/25/1988, 53 FR 32391	See 52.1535(c)(39).
Letter from NH DES, Air Resources Division providing additional information on Nashua intersection-specific traffic flow improvements in Nashua, NH CO Attainment Plan.	Nashua and 11 surrounding towns.	5/12/1987	8/25/1988, 53 FR 32391	See 52.1535(c)(39).
Letter from NH DES, Air Resources Division submitting additions to the Nashua, NH CO Attainment Plan.	Nashua and 11 surrounding towns.	10/15/1987	8/25/1988, 53 FR 32391	See 52.1535(c)(39).
Letter from the New Hampshire Air Resources Division dated July 6, 1989 submitting revisions to the NH SIP.	Statewide	7/6/1989	8/19/1994, 59 FR 42766	See 52.1535(c)(40).
Letter from the New Hampshire Air Resources Division dated February 12, 1991 submitting a revision to the NH SIP.	Statewide	2/12/1991	8/14/1991, 56 FR 40252	See 52.1535(c)(41).
Nonregulatory portions of the State submittal.	Statewide	2/12/1991	8/14/1991, 56 FR 40252	See 52.1535(c)(41).
Letter from the New Hampshire Air Resources Division dated November 21, 1989 submitting a revision to the NH SIP.	Statewide	11/21/1989	6/13/1991, 56 FR 27197	See 52.1535(c)(43).
Letter from Robert W. Varney, Commissioner of the Department of Environmental Services of New Hampshire, to John B. Hammond, Acting Director of the New Hampshire Office of Legislative Services, dated November 15, 1989, adopting final rules.	Statewide	11/21/1989	6/13/1991, 56 FR 27197	See 52.1535(c)(43).
Letter from the New Hampshire Air Resources Division dated September 12, 1990 submitting a revision to the NH SIP that withdraws nine source-specific operating permits incorporated by reference at 40 CFR 52.1535(c)(21), (c)(25) and (c)(32).	Statewide	9/12/1990	12/12/1991, 56 FR 64703	See 52.1535(c)(44).
Letter from the New Hampshire Air Resources Division dated July 2, 1991 submitting documentation of a public hearing.	Statewide	7/2/1991	12/12/1991, 56 FR 64703	See 52.1535(c)(44).

NEW HAMPSHIRE NONREGULATORY—Continued

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date [3]	Explanations
Letter from the New Hampshire Air Resources Division dated February 12, 1991 submitting revisions to the NH SIP.	Statewide	2/12/1991	8/14/1992, 57 FR 36603	See 52.1535(c)(45).
Letter from the New Hampshire Air Resources Division dated May 7, 1991 withdrawing certain portion of the February 12, 1991 SIP submittal.	Statewide	5/7/1991	8/14/1992, 57 FR 36603	See 52.1535(c)(45).
Letter from the New Hampshire Air Resources Division dated August 20, 1991 withdrawing certain portion of the February 12, 1991 SIP submittal.	Statewide	8/20/1991	8/14/1992, 57 FR 36603	See 52.1535(c)(45).
Letter from the New Hampshire Air Resources Division dated August 26, 1991 withdrawing certain portion of the February 12, 1991 SIP submittal.	Statewide	8/26/1991	8/14/1992, 57 FR 36603	See 52.1535(c)(45).
Letter from the New Hampshire Air Resources Division dated March 6, 1992 withdrawing certain portion of the February 12, 1991 SIP submittal.	Statewide	3/6/1992	8/14/1992, 57 FR 36603	See 52.1535(c)(45).
Letter from the New Hampshire Air Resources Division dated May 6, 1992 withdrawing certain portion of the February 12, 1991 SIP submittal.	Statewide	5/6/1992	8/14/1992, 57 FR 36603	See 52.1535(c)(45).
Letter from the New Hampshire Air Resources Division dated May 15, 1992 submitting a revision to the NH SIP.	Statewide	5/15/1992	1/19/1993, 58 FR 4902	See 52.1535(c)(46). Revisions to the SIP consisting of amendments to Emission Control Methods for Cutback and Emulsified Asphalt.
Letter from the New Hampshire Air Resources Division dated May 15, 1992 submitting a revision to the NH SIP.	Statewide	5/15/1992	5/25/1993, 58 FR 29973	See 52.1535(c)(47).
Letter from the New Hampshire Air Resources Division dated December 21, 1992, submitting revisions to the NH SIP.	Statewide	12/21/1992	4/9/1997, 62 FR 17087	See 52.1535(c)(49).
Letter from the New Hampshire Air Resources Division dated June 17, 1994 submitting revisions to the NH SIP.	Statewide	6/17/1994	4/9/1997, 62 FR 17087	See 52.1535(c)(49).
Letter from the New Hampshire Air Resources Division dated July 7, 1995 submitting revisions to the NH SIP.	Statewide	7/7/1995	4/9/1997, 62 FR 17087	See 52.1535(c)(50).
Letter from the New Hampshire Air Resources Division dated September 18, 1995 submitting revisions to the NH SIP.	Statewide	9/18/1995	4/9/1997, 62 FR 17087	See 52.1535(c)(50).

NEW HAMPSHIRE NONREGULATORY—Continued

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date [3]	Explanations
Letter from the New Hampshire Air Resources Division dated October 18, 1995, submitting revisions to the NH SIP.	Statewide	10/18/1995	4/9/1997, 62 FR 17087	See 52.1535(c)(50).
Letter from the New Hampshire Air Resources Division dated December 9, 1996 submitting revisions to the NH SIP.	Gonic, NH	12/9/1996	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
Letter from the New Hampshire Air Resources Division dated June 28, 1996 submitting revisions to the NH SIP.	Statewide	6/28/1996	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
Letter from the New Hampshire Air Resources Division dated October 24, 1996 submitting revisions to the NH SIP.	Manchester, NH	10/24/1996	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
Letter from the New Hampshire Air Resources Division dated July 10, 1995 submitting revisions to the NH SIP.	Statewide	7/10/1995	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
Letter from the New Hampshire Air Resources Division dated December 21, 1992 submitting revisions to the NH SIP.	Statewide	12/21/1992	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
Letter dated November 21, 1997 withdrawing Env-A 1204.06 from the SIP submittal.	Statewide	11/21/1997	3/10/1998, 63 FR 11600	See 52.1535(c)(51).
NH–DES letter dated December 13, 1994, and signed by Thomas M. Noel, Acting Director, NH DES.	Statewide	12/13/1994	10/27/1997, 62 FR 55521	See 52.1535(c)(52).
State of New Hampshire Photochemical Assessment Monitoring Stations—Network Plan—Network Overview.	Statewide	12/13/1994	10/27/1997, 62 FR 55521	See 52.1535(c)(52).
Letter from the New Hampshire Air Resources Division dated August 29, 1996 submitting a revision to the NH SIP.	Portsmouth-Dover-Rochester serious ozone nonattainment area, and the NH portion of the Boston-Lawrence-Worcester serious ozone nonattainment area.	8/29/1996	10/27/1997, 62 FR 55521	See 52.1533. Revisions to the SIP for the purpose of satisfying the rate-of-progress requirement of section 182(b) and the contingency measure requirement of section 172(c)(9) of the Clean Air Act.
Letter from the New Hampshire Air Resources Division dated April 14, 1997 submitting revisions to the NH SIP.	Statewide	4/14/1997	5/13/1998, 63 FR 26455	See 52.1535(c)(54).
Letter from the New Hampshire Air Resources Division dated May 6, 1997 submitting revisions to the NH SIP.	Nashua, NH	5/6/1997	5/13/1998, 63 FR 26455	See 52.1535(c)(54).
Letter from the New Hampshire Air Resources Division dated September 24, 1997 submitting revisions to the NH SIP.	Statewide	9/24/1997	5/13/1998, 63 FR 26455	See 52.1535(c)(54).

NEW HAMPSHIRE NONREGULATORY—Continued

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date [3]	Explanations
Letter from the New Hampshire Air Resources Division dated July 27, 1998 submitting a revision to the NH SIP.	Statewide	7/27/1998	11/14/2000, 65 FR 68078	See 52.1535(c)(57).
Letter from the New Hampshire Air Resources Division dated November 24, 1992 submitting a revision to the New Hampshire State Implementation Plan.	Statewide	11/24/1992	12/7/1998, 63 FR 67405	See 52.1535(c)(58).
New Hampshire Department of Environmental Services ''Stage II Equivalency Demonstration,'' dated November 1992.	Statewide	11/24/1992	12/7/1998, 63 FR 67405	See 52.1535(c)(58).
Nonregulatory portions of the submittal.	Statewide	7/2/1993	12/7/1998, 63 FR 67405	See 52.1535(c)(58). NH's Gasoline Vapor Recovery Testing Procedures and Inspection Manual.
Letter from the New Hampshire Air Resources Division dated November 20, 1998 submitting a revision to the NH SIP.	Statewide	11/20/1998	1/10/2001, 66 FR 1868	See 52.1535(c)(59).
Letter from the New Hampshire Air Resources Division dated September 4, 1998 submitting a revision to the NH SIP.	Statewide	9/4/1998	1/10/2001, 66 FR 1868	See 52.1535(c)(59).
Document entitled ''Alternative New Hampshire Motor Vehicle Inspection/Maintenance State Implementation Plan Revision'' dated September 4, 1998.	Statewide	9/4/1998	1/10/2001, 66 FR 1868	See 52.1535(c)(59).
Letter from the New Hampshire Air Resources Division dated August 6, 2001 submitting a revision to the NH SIP.	Statewide	8/9/2001	10/28/2002, 67 FR 65710	See 52.1535(c)(60).
Letter from the New Hampshire Air Resources Division dated April 26, 1995 submitting a revision to the NH SIP.	Statewide	4/26/1995	10/28/2002, 67 FR 65710	See 52.1535(c)(60).
Nonregulatory portions of the State submittal..	Statewide	4/26/1995	10/28/2002, 67 FR 65710	See 52.1535(c)(60).
Document entitled ''New Hampshire Stage II Comparability Analysis,'' prepared by the New Hampshire Department of Environmental Services, dated July 1, 1998.	Statewide	7/9/1998	9/29/1999, 64 FR 52434.	See 52.1535(c)(61).
Letter from the New Hampshire Department of Environmental Services dated June 7, 1994 submitting a revision to the NH SIP.	Statewide	6/7/1994	9/29/1999, 64 FR 52434.	See 52.1535(c)(62).
Document entitled ''Clean Fuel Fleet Equivalency Demonstration,'' prepared by the New Hampshire Department of Environmental Services, dated May, 1994.	Statewide	6/7/1994	9/29/1999, 64 FR 52434.	See 52.1535(c)(62).

NEW HAMPSHIRE NONREGULATORY—Continued

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date [3]	Explanations
Letter from the New Hampshire Department of Environmental Services dated July 10, 1996 submitting a revision to the NH SIP.	Statewide	7/10/1996	8/16/1999, 64 FR 44417	See 52.1535(c)(63).
Letter from the New Hampshire Air Resources Division dated July 17, 1998 submitting Final RACT Order 98–001 as a revision to the NH SIP.	Statewide	7/17/1998	11/14/2000, 65 FR 68078	See 52.1535(c)(64).
Letter from the New Hampshire Department of Environmental Services dated August 16, 1999 submitting the Low Emission Vehicle program as a revision to the NH SIP.	Statewide	8/16/1999	3/9/2000, 65 FR 12476	See 52.1535(c)(65).
Letter from the New Hampshire Air Resources Division dated July 29, 1993 submitting a revision to the New Hampshire State Implementation Plan.	Statewide	7/29/1993	7/27/2001, 66 FR 39100	See 52.1535(c)(66).
Letter from the New Hampshire Air Resources Division dated July 2, 1999 submitting a revision to the New Hampshire State Implementation Plan.	Statewide	7/2/1999	7/27/2001, 66 FR 39100	See 52.1535(c)(66).
Letter from the New Hampshire Department of Environmental Services dated September 11, 1998 stating a negative declaration for the aerospace coating operations Control Techniques Guideline category.	Statewide	9/11/1998	7/10/2000, 65 FR 42290	See 52.1535(c)(67).
Letter from the DES, dated April 15, 2002, submitting revised Anheuser-Busch order to EPA as a SIP revision and withdrawing previous submittal for this facility dated June 20, 2000.	Merrimack, NH	4/15/2002	7/23/2002, 67 FR 48033	See 52.1535(c)(68).
Letter from the DES, dated March 22, 2002, containing information on New Filcas of America.	Nashua, NH	3/22/2002	7/23/2002, 67 FR 48033	See 52.1535(c)(68).

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the FEDERAL REGISTER notice cited in this column for the particular provision.

[FR Doc. E9–23472 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2003–0118; FRL–8959–2]

RIN 2060–AG12

Protection of Stratospheric Ozone: Notice 24 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Determination of acceptability.

SUMMARY: This Determination of Acceptability expands the list of acceptable substitutes for ozone-depleting substances under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. The determinations concern new substitutes for use in the refrigeration and air conditioning and foam blowing sectors.

DATES: This determination is effective on September 30, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID

No. EPA–HQ–OAR–2003–0118 (continuation of Air Docket A–91–42). All electronic documents in the docket are listed in the index at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the EPA Air Docket (No. A–91–42), EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard by telephone at (202) 343–9163, by facsimile at (202) 343–2338, by e-mail at *sheppard.margaret@epa.gov,* or by mail at U.S. Environmental Protection Agency, Mail Code 6205J, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 1310 L Street, NW., 10th floor, Washington, DC 20005.

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the original SNAP rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as other EPA publications on protection of stratospheric ozone, are available at EPA's Ozone Depletion World Wide Web site at *http://www.epa.gov/ozone/* including the SNAP portion at *http://www.epa.gov/ozone/snap/.*

SUPPLEMENTARY INFORMATION:

I. Listing of New Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for substitutes in the refrigeration and air conditioning and foam blowing sectors. For copies of the full list of ozone depleting substance (ODS) substitutes in all industrial sectors, visit EPA's Ozone Depletion Web site at *http://www.epa.gov/ozone/snap/lists/index.html.*

The sections below discuss each substitute listing in detail. Appendix A contains a table summarizing today's listing decisions for new substitutes. The statements in the ''Further Information'' column in the table provide additional information, but are not legally binding under section 612 of the Clean Air Act (CAA). In addition, the ''further information'' may not be a comprehensive list of other legal obligations you may need to meet when using the substitute. Although you are not required to follow recommendations in the ''further information'' column of the table to use a substitute consistent with section 612 of the CAA, EPA strongly encourages you to apply the information when using these substitutes. In many instances, the information simply refers to standard operating practices in existing industry and/or building-code standards. However, some of these statements may refer to obligations that are enforceable or binding under Federal or State programs other than the SNAP program. Thus, many of these statements, if adopted, would not require significant changes to existing operating practices.

You can find submissions to EPA for the use of the substitutes listed in this document and other materials supporting the decisions in this action in docket EPA–HQ–OAR–2003–0118 at *http://www.regulations.gov.*

A. Refrigeration and Air Conditioning

1. R–744 (CO_2)

EPA's decision: R–744 (carbon dioxide or CO_2) is acceptable for use in new equipment as a substitute for chlorofluorocarbon (CFC)–12, R–502, hydrochlorofluorocarbon (HCFC)–22 and HCFC blends in:

- Retail food refrigeration.
- Cold storage warehouses.

R–744 is carbon dioxide (CO_2), CAS ID #124–38–9. You may find the submissions under Docket items EPA–HQ–OAR–2003–0118–0205, –0207, –0208 and –0223 at *http://www.regulations.gov.*

Environmental information: The ozone depletion potential (ODP) of CO_2 is zero. The 100-year global warming potential (GWP) of CO_2 is 1. The atmospheric lifetime of CO_2 is based upon a complex function of different processes in the carbon cycle, with some portion of CO_2 emissions expected to last 1000 years or longer (The International Panel on Climate Change [IPCC], Fourth Assessment Report, *Climate Change 2007: The Physical Science Basis*).

EPA's regulations codified at 40 CFR part 82, subpart F exempt CO_2 refrigerant from the venting prohibition under section 608 (c)(2) of the Clean Air Act. This section and EPA's implementing regulations prohibit the intentional venting or release of substitutes for class I or class II ODSs used during the repair, maintenance, service or disposal of refrigeration and air conditioning equipment (*i.e.,* appliances).

CO_2 is excluded from the definition of volatile organic compound (VOC) under Clean Air Act regulations (*see* 40 CFR 51.100(s)) addressing the development of State Implementation Plans (SIPs) to attain and maintain the national ambient air quality standards.

Flammability information: CO_2 is not flammable.

Toxicity and exposure data: Potential health effects of this substitute at lower concentrations include loss of concentration. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, it may cause central nervous system depression or death. The substitute could cause asphyxiation, if air is displaced by vapors in a confined space. These potential health effects are common to many refrigerants.

To protect against these potential health risks, CO_2 has an 8 hour/day, 40 hour/week permissible exposure limit (PEL) of 5000 ppm required by the Occupational Safety and Health Administration (OSHA) and a 15-minute recommended short-term exposure limit (STEL) of 30,000 ppm established by the National Institute for Occupational Safety and Health (NIOSH). EPA recommends that users follow all requirements and recommendations specified in the Material Safety Data Sheet (MSDS), in American Society for Heating and Refrigeration Engineers (ASHRAE) standard 15, and other safety precautions common in the refrigeration and air conditioning industry. We also recommend that users of R–744 adhere to NIOSH's STEL and to ASHRAE 15 and we expect that users will meet OSHA's PEL. EPA anticipates that users will be able to meet the PEL and STEL and will be able to address potential health risks by following requirements and recommendations in the MSDSs, in ASHRAE 15, and other safety precautions common in the refrigeration and air conditioning industry.

Comparison to other refrigerants: CO_2 (R–744) is not an ozone depleter in contrast to the ozone-depleting substances which it replaces. In its lack of risk for ozone depletion, R–744 is

comparable to a number of other substitutes for CFC–12, R–502, and HCFC–22 and its blends, such as R–404A, R–407C, R–410A, and R–507. (R–502 is a blend of 48.8% HCFC–22 and 51.2% CFC–115 by weight. CFC–12 has an ODP of 1.0 and a GWP of 10,890; CFC–115 has an ODP of 0.44 and a GWP of 7370; and HCFC–22 has an ODP of 0.05 and a GWP of 1810, according to the *Scientific Assessment of Ozone Depletion: 2006* prepared by the World Meteorological Organization (WMO, 2006).) R–744 has a GWP of 1, lower than that of other substitutes for CFC–12, R–502, and HCFC–22. For example, the GWP of R–404A is about 3930, the GWP of R–407C is about 3350, the GWP of R–410A is about 2100, and the GWP of R–507 is about 4000. Flammability and toxicity risks are low, as discussed above. Thus, we find that R–744 is acceptable because it does not pose a greater overall risk to public health and the environment than the other substitutes acceptable in the end uses listed above.

2. C6–Perfluoroketone

EPA's decision: C6-perfluoroketone is acceptable as a substitute for CFC–113 for use in new and retrofit equipment in non-mechanical heat transfer.

C6-perfluoroketone is also known as 1,1,1,2,2,4,5,5,5-nonafluoro-4-(trifluoromethyl)-3-pentanone or FK–5–1–12mmy2 (CAS Reg. No. 756–13–8). It is marketed under the trade name Novec™ 649. EPA previously found this substitute acceptable in the fire protection sector (December 20, 2002; 67 FR 77927). You may find the most recent submission under Docket item EPA–HQ–OAR–2003–0118–0214 and –0216 at *http://www.regulations.gov.*

Environmental information: C6-perfluoroketone has no ODP. C6-perfluoroketone has a GWP of 0.6 to 1.8 and an atmospheric lifetime of up to 2 weeks (October 1, 2004; 69 FR 58903). C6-perfluoroketone is currently defined as a VOC under Clean Air Act regulations (*see* 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the national ambient air quality standards.

Flammability information: C6-perfluoroketone is non-flammable.

Toxicity and exposure data: Potential health effects of this substitute include central nervous system depression or irregular heartbeat, at sufficiently high concentrations. These potential health effects are common to many refrigerants.

EPA anticipates that C6-perfluoroketone will be used consistent with the recommendations specified in the manufacturer's MSDSs. The manufacturer recommends a workplace exposure limit of 150 ppm over an 8-hour time-weighted average for C6-perfluoroketone. EPA anticipates that users will be able to meet the manufacturer's recommended workplace exposure limit and will be able to address potential health risks by following requirements and recommendations in the MSDSs and other safety precautions common in the refrigeration and air conditioning industry.

Comparison to other refrigerants: C6-perfluoroketone is not ozone depleting in contrast to CFC–113, the ozone depleting substance which it replaces. In its lack of risk for ozone depletion, C6-perfluoroketone is comparable to other non-ozone-depleting substitutes for CFC–113, such as HFE–7100, HFC–245fa and CO_2. (CFC–113, has an ozone depletion potential (ODP) of 1.0 relative to CFC–11 (WMO, 2006).) C6-perfluoroketone's GWP is less than 2, which is comparable to or lower than that of other substitutes for CFC–113 in heat transfer uses. For example, the GWP of HFE–7100 is about 297, the GWP of HFC–245fa is about 1030, and the GWP of CO_2 is 1. Additionally, the GWP for C6-perfluoroketone is significantly lower than the GWP for the ozone-depleting substance it will replace. (CFC–113 has a GWP of 6130 (WMO, 2006).) Flammability and toxicity risks are low, as discussed above. Thus, we find that C6-perfluoroketone is acceptable because it does not pose a greater overall risk to public health and the environment than the other substitutes acceptable in the end use listed above.

3. R–438A (ISCEON® MO99)

DuPont Fluoroproducts has notified EPA that it is using the name DuPont™ISCEON® MO99 in marketing the refrigerant blend that EPA reviewed under the name ''KDD5''. On October 4, 2007 (72 FR 56628), EPA found KDD5 acceptable as a substitute for HCFC–22 for a variety of end-uses. The composition of the formulation was originally requested to be confidential business information (CBI); however, the company has now removed the CBI restrictions. This blend has been given the designation R–438A in ASHRAE Standard 34. This blend is non-flammable and has ASHRAE safety classification A1.

B. Foam Blowing

1. Formacel® TI

EPA's decision: Formacel® TI is acceptable as a substitute for HCFC–22 and HCFC–142b in:

- Rigid Polyurethane Appliance Foam.
- Rigid Polyurethane Spray, Commercial Refrigeration, and Sandwich Panels.
- Integral Skin Polyurethane.
- Polyolefin.
- Rigid Polyurethane Slabstock and Other.
- Polystyrene Extruded Boardstock & Billet.
- Polystyrene Extruded Sheet.
- Rigid Polyurethane & Polyisocyanurate Laminated Boardstock.

Formacel® TI is a series of blends with different percentage contents of the same compounds. The submitter has claimed its composition as confidential business information. You may find the submission under Docket item EPA–HQ–OAR–2003–0118–0217 and –0219 at *http://www.regulations.gov.*

Environmental information: Formacel® TI has no ODP. Formacel® TI blends range in global warming potential (GWP) from approximately 1330 to 1500. Formacel® TI does not contain volatile organic compounds (VOC) as defined under Clean Air Act regulations (*see* 40 CFR 51.100(s)) addressing the development of State Implementation Plans (SIPs) to attain and maintain the national ambient air quality standards.

Flammability information: Formacel® TI blends are not flammable.

Toxicity and exposure data: Potential health effects of this substitute include nausea, headache, weakness, or central nervous system depression with effects such as dizziness, drowsiness, confusion, or loss of consciousness. The substitute may also irritate the lungs, skin or eyes or cause frostbite. At high concentrations, the substitute may cause irregular heartbeat or death. The substitute could cause asphyxiation, if air is displaced by vapors in a confined space. These potential health effects are common to many foam blowing agents.

EPA anticipates that Formacel® TI will be used consistent with the recommendations specified in the manufacturer's Material Safety Data Sheets (MSDSs). The manufacturer recommends a workplace exposure limit of 1000 ppm on an 8-hour time-weighted average for Formacel® TI. EPA anticipates that users will be able to meet the manufacturer's recommended workplace exposure limits and will be able to address potential health risks by following requirements and recommendations in the MSDSs and other safety precautions common in the foam blowing industry.

Comparison to other foam blowing agents: Formacel® TI is not ozone

depleting in contrast to the ozone depleting substances which it replaces. (HCFC–22 and HCFC–142b have ODPs of 0.05 and 0.07, respectively (WMO, 2006).) In its lack of risk for ozone depletion, Formacel® TI is comparable to other substitutes for HCFC–22 and HCFC–142b, such as hydrofluorocarbon (HFC)–134a and HFC–245fa. Formacel® TI blends range in GWP from 1330 to 1500, comparable to or lower than that of other substitutes for HCFC–22 and HCFC–142b. For example, the GWP of HFC–134a is about 1430 and the GWP of HFC–245fa is about 1030. Additionally, the GWP for Formacel® TI is lower than the GWP for the ozone-depleting substances it will replace. (The GWPs of HCFC–22 and HCFC–142b are 1810 and 2310, respectively (WMO, 2006). Flammability and toxicity risks are low, as discussed above. Thus, we find that Formacel® TI is acceptable because it does not pose a greater overall risk to public health and the environment than the other substitutes acceptable in the end use listed above.

2. HFO–1234ze

EPA's decision: Hydrofluoroolefin[1] *(HFO)–1234ze is acceptable as a substitute for CFCs and HCFCs in:*

- Rigid Polyurethane Appliance Foam.
- Rigid Polyurethane Spray, Commercial Refrigeration, and Sandwich Panels.
- Polystyrene Extruded Boardstock & Billet.

HFO–1234ze is also known as HFC–1234ze or trans-1,3,3,3-tetrafluoroprop-1-ene (CAS Reg. No.29118–24–9). You may find the submission under Docket item EPA–HQ–OAR–2003–0118–0222 at *http://www.regulations.gov.*

Environmental information: HFO–1234ze has no ODP. HFO–1234ze has a GWP of 6 and an atmospheric lifetime of approximately 2 weeks (''Atmospheric chemistry of trans-CF3CH=CHF: products and mechanisms of hydroxyl radical and chlorine atom initiated oxidation,'' M.S. Javadi, R. Søndergaard, O.J. Nielsen, M.D. Hurley, and T.J. Wellington, *Atmospheric Chemistry and Physics Discussions* 8, 1069–1088, 2008). HFO–1234ze is currently defined as a VOC as defined under Clean Air Act regulations (*see* 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the national ambient air quality standards.

Flammability information: HFO–1234ze is non-flammable.

Toxicity and exposure data: Potential health effects of this substitute at lower concentrations include drowsiness and dizziness. The substitute may also irritate the skin or eyes or cause frostbite. At sufficiently high concentrations, it may cause central nervous system depression or irregular heartbeat. The substitute could cause asphyxiation, if air is displaced by vapors in a confined space. The substitute may also irritate the lungs, skin or eyes or cause frostbite. These potential health effects are common to many foam blowing agents.

EPA anticipates that HFO–1234ze will be used consistent with the recommendations specified in the manufacturer's MSDSs. EPA recommends a preliminary workplace exposure limit of 375 ppm for HFO–1234ze. EPA anticipates that users will be able to meet this recommended workplace exposure limit and will be able to address potential health risks by following requirements and recommendations in the MSDSs and other safety precautions common in the foam blowing industry. Further, EPA is reviewing this substance as a Pre-manufacture Notice under the Toxic Substances Control Act (TSCA). Therefore, use of HFO–1234ze must be in accord with EPA's final decision under TSCA.

Comparison to other foam blowing agents: HFO–1234ze is not ozone depleting in contrast to the ozone depleting substances which it replaces. In its lack of risk for ozone depletion, HFO–1234ze is comparable to other substitutes for HCFC–22 and HCFC–142b, such as HFC–134a and HFC–245fa. (HCFC–22 and HCFC–142b have ODPs of 0.05 and 0.07, respectively (WMO, 2006).) HFO–1234ze's GWP is 6, comparable to or lower than that of other substitutes for HCFC–22 and HCFC–142b. For example, the GWP of HFC–134a is about 1430 and the GWP of HFC–245fa is about 1030. Additionally, the GWP for HFO–1234ze is significantly lower than the GWPs for the ozone-depleting substances it will replace. (The GWPs of HCFC–22 and HCFC–142b are 1810 and 2310, respectively (WMO, 2006).) Flammability risks can be addressed by procedures common in the industry. The toxicity risks are low, as discussed above. Thus, we find that HFO–1234ze is acceptable because it does not pose a greater overall risk to public health and the environment than the other substitutes acceptable in the end uses listed above.

3. HFC–365mfc

EPA's decision: HFC–365mfc is acceptable as a substitute for HCFC–141b in:

- Rigid Polyurethane Appliance Foam.
- Rigid Polyurethane Commercial Refrigeration and Sandwich Panels.
- Flexible Polyurethane.
- Integral Skin Polyurethane.
- Polystyrene Extruded Sheet.
- Polyolefin.
- Rigid Polyurethane Slabstock and Other.
- Polystyrene Extruded Boardstock & Billet.
- Rigid Polyurethane & Polyisocyanurate Laminated Boardstock.
- Phenolic Insulation Board & Bunstock.

HFC–365mfc is also known as 1,1,1,3,3-pentafluorobutane (CAS Reg. No. 405–58–6). EPA previously found HFC–365mfc acceptable as an aerosol solvent and as a solvent in metals, electronics, and precision cleaning (December 18, 2000; 65 FR 78977). You may find the submission under Docket items EPA–HQ–OAR–2003–0118–0221 and –0224 at *http://www.regulations.gov.*

Environmental information: HFC–365mfc has no ODP. HFC–365mfc has a GWP of 794 and an atmospheric lifetime of 8.6 years (IPCC, 2007). HFC–365mfc is not a VOC as defined under Clean Air Act regulations (*see* 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the national ambient air quality standards.

Flammability information: HFC–365mfc is mildly flammable with a flashpoint below −27 °C and a lower flammability limit of 3.6% by volume in air. Thus, it should be handled with proper precautions. EPA recommends that users follow all requirements and recommendations specified in the MSDS and other safety precautions for use of flammable blowing agents used in the foam blowing industry. Use of HFC–365mfc will require safe handling and shipping as prescribed by the Occupational Safety and Health Administration (OSHA) and the Department of Transportation (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173).

Toxicity and exposure data: Potential health effects of this substitute include irritation of the lungs, skin or eyes or frostbite. At high concentrations, the substitute may also cause irregular heartbeat, unconsciousness, or death. The substitute could cause asphyxiation, if air is displaced by

[1] Hydrofluoroolefins are a subset of hydrofluorocarbons that contain double bonds between carbon atoms.

vapors in a confined space. These potential health effects are common to many foam blowing agents.

EPA anticipates that HFC–365mfc will be used consistent with the recommendations specified in the manufacturer's MSDSs. The manufacturer recommends a workplace exposure limit of 1000 ppm on an 8-hour time-weighted average for HFC–365mfc. EPA anticipates that users will be able to meet the manufacturer's recommended workplace exposure limits and will be able to address potential health risks by following requirements and recommendations in the MSDSs and other safety precautions common in the foam blowing industry.

Comparison to other foam blowing agents: HFC–365mfc is not ozone depleting in contrast to the ozone depleting substances which it replaces. (HCFC–141b has an ODP of 0.12 (WMO, 2006).) In its lack of risk for ozone depletion, HFC–365mfc is comparable to other non-ozone-depleting substitutes for HCFC–141b, such as HFC–134a and HFC–245fa. HFC–365mfc's GWP is 794, comparable to or lower than that of other substitutes for HCFC–141b. For example, the GWP of HFC–134a is about 1430 and the GWP of HFC–245fa is about 1030. Additionally, the GWP for HFC–365mfc is comparable to the GWP for the ozone-depleting substance it will replace. (The GWP of HCFC–141b is 725 (WMO, 2006)). Flammability risks can be addressed by procedures common in the industry. The toxicity risks are low, as discussed above. Thus, we find that HFC–365mfc is acceptable because it does not pose a greater overall risk to public health and the environment than the other substitutes acceptable in the end use listed above.

4. Blends of HFC–365mfc and HFC–245fa

EPA's decision: Blends of HFC–365mfc and HFC–245fa containing at least 5% HFC–245fa are acceptable as substitutes for HCFC–141b in:

- Rigid Polyurethane Spray, Commercial Refrigeration and Sandwich Panels

Additional information about HFC–365mfc is in the decision above in this section. HFC–245fa is also known as 1,1,1,3,3-pentafluoropropane (CAS Reg. No. 460–73–1). EPA previously found HFC–245fa acceptable as a foam blowing agent, as an aerosol solvent, and as a refrigerant (August 21, 2003, 68 FR 50533; March 22, 2002, 76 FR 13272; June 19, 2000, 65 FR 37900; March 29, 2006; 71 FR 15589). The submitter expects that users would use blends containing at least 5 percent HFC–245fa by weight with the remainder being HFC–365mfc, with blends typically containing 30 to 70 percent HFC–245fa and 70 to 30 percent HFC–365mfc. You may find the information on blends of HFC–365mfc and HFC–245fa under Docket item EPA–HQ–OAR–2003–0118–0227 at *http://www.regulations.gov*.

Environmental information: For environmental information about HFC–365mfc, see the decision above in this section. HFC–245fa has no ODP. HFC–245fa has a GWP of 1030 and an atmospheric lifetime of 7.6 years (IPCC, 2007). HFC–245fa is not a VOC as defined under Clean Air Act regulations (*see* 40 CFR 51.100(s)) addressing the development of SIPs to attain and maintain the national ambient air quality standards.

Flammability information: HFC–365mfc is mildly flammable with a flashpoint below −27 °C, while HFC–245fa is non-flammable. Blends of HFC–365mfc and HFC–245fa containing at least 5% HFC–245fa by weight will not be flammable. Blends will require safe handling and shipping as prescribed by the Occupational Safety and Health Administration (OSHA) and the Department of Transportation (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173).

Toxicity and exposure data: Potential health effects of this substitute include irritation of the lungs, skin or eyes or frostbite. At high concentrations, the substitute may also cause irregular heartbeat, unconsciousness, or death. The substitute could cause asphyxiation, if air is displaced by vapors in a confined space. These potential health effects are common to many foam blowing agents.

EPA anticipates that blends of HFC–365mfc and HFC–245fa will be used consistent with the recommendations specified in the manufacturer's MSDSs. The manufacturer recommends a workplace exposure limit of 1000 ppm on an 8-hour time-weighted average for HFC–365mfc. The American Industrial Hygiene Association (AIHA) recommends a workplace environmental exposure limit (WEEL) of 300 ppm on an 8-hour time-weighted average for HFC–245fa. EPA anticipates that users will be able to meet the manufacturer's recommended workplace exposure limits and the AIHA WEEL and will be able to address potential health risks by following requirements and recommendations in the MSDSs and other safety precautions common in the foam blowing industry.

Comparison to other foam blowing agents: Blends of HFC–365mfc and HFC–245fa are not ozone depleting in contrast to the ozone depleting substances which they replace. (HCFC–141b has an ODP of 0.12 (WMO, 2006).) In their lack of risk for ozone depletion, blends of HFC–365mfc and HFC–245fa are comparable to other non-ozone-depleting substitutes for HCFC–141b, such as HFC–134a and HFC–245fa alone. Blends of HFC–365mfc and HFC–245fa will have average GWP ranging from 865 to 960, comparable to or lower than that of other substitutes for HCFC–141b. For example, the GWP of HFC–134a is about 1430 and the GWP of HFC–245fa alone is about 1030. The GWPs for blends of HFC–365mfc and HFC–245fa are comparable to the GWP for the ozone-depleting substance they will replace. (The GWP of HCFC–141b is 725 (WMO, 2006)). Flammability risks of the blend are low, as discussed above. The toxicity risks are low, as discussed above. Thus, we find that blends of HFC–365mfc and HFC–245fa are acceptable because they do not pose a greater overall risk to public health and the environment than the other substitutes acceptable in the end use listed above.

II. Section 612 Program

A. Section 612 Statutory and Regulatory Background

Section 612 of the Clean Air Act (CAA) requires EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

1. Rulemaking

Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (*e.g.,* chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (*e.g.,* hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

2. Listing of Unacceptable/Acceptable Substitutes

Section 612(c) requires EPA to publish a list of the substitutes unacceptable for specific uses and to publish a corresponding list of acceptable alternatives for specific uses. The list of acceptable substitutes may be

found at *http://www.epa.gov/ozone/snap/lists/index.html* and the lists of unacceptable substitutes, substitutes acceptable subject to use conditions and substitutes acceptable subject to narrowed use limits may be found at 40 CFR part 82 subpart G.

3. Petition Process

Section 612(d) grants the right to any person to petition EPA to add a substance to, or delete a substance from, the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.

4. 90-Day Notification

Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

5. Outreach

Section 612(b)(1) states that the Administrator shall seek to maximize the use of Federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

6. Clearinghouse

Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

7. EPA's Regulations Implementing Section 612

On March 18, 1994, EPA published the original rulemaking (59 FR 13044) which established the process for administering the SNAP program and issued EPA's first lists identifying acceptable and unacceptable substitutes in the major industrial use sectors. 40 CFR part 82, subpart G. These sectors include: refrigeration and air conditioning; foam blowing; solvents cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consumed the largest volumes of ODS.

For the purposes of SNAP, the Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II substance in a sector that has historically used ODS. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators, or end-users, when they are responsible for introducing a substitute into commerce.

B. Regulatory History

On March 18, 1994, EPA published the final rulemaking (59 FR 13044) that described the process for administering the SNAP program and issued our first acceptability lists for substitutes in the major industrial use sectors. These sectors include:

- Refrigeration and air conditioning;
- Foam blowing;
- Solvents cleaning;
- Fire suppression and explosion protection;
- Sterilants;
- Aerosols;
- Adhesives, coatings and inks; and
- Tobacco expansion.

These sectors comprise the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in the original rule for the SNAP program, EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Therefore, by this notice we are adding substances to the list of acceptable alternatives without first requesting comment on new listings.

However, we do believe that notice-and-comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from the lists of prohibited or acceptable substitutes. We publish updates to these lists as separate notices of rulemaking in the **Federal Register**.

The Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II substance. Anyone who plans to market or produces a substitute for an ODS in one of the eight major industrial use sectors must provide EPA with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators, or end-users, when they are responsible for introducing a substitute into commerce.

You can find a complete chronology of SNAP decisions and the appropriate **Federal Register** citations from the SNAP section of EPA's Ozone Depletion World Wide Web site at *http://www.epa.gov/ozone/snap/chron.html.* This information is also available from the Air Docket (*see* **ADDRESSES** section above for contact information).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: September 11, 2009.

Jackie Krieger,

Acting Director, Office of Atmospheric Programs.

Note: The following appendix will not appear in the Code of Federal Regulations.

APPENDIX A—SUMMARY OF ACCEPTABLE DECISIONS

End-use	Substitute	Decision	Further information
Refrigeration and Air Conditioning			
Retail food refrigeration (new)	R–744 (CO_2) as a substitute for CFC–12, R–502, HCFC–22, and blends containing HCFC–22.	Acceptable ...	Observe recommendations in the equipment manufacturers' guidance manual and MSDSs and follow the guidelines of ASHRAE 15.

APPENDIX A—SUMMARY OF ACCEPTABLE DECISIONS—Continued

End-use	Substitute	Decision	Further information
Cold storage warehouses (new).	R–744 (CO_2) as a substitute for CFC–12, R–502, HCFC–22, and blends containing HCFC–22.	Acceptable ...	Observe recommendations in the equipment manufacturers' guidance manual and MSDSs and follow the guidelines of ASHRAE 15.
Non-mechanical heat transfer (retrofit and new).	C6-perfluoroketone as a substitute for CFC–113.	Acceptable ...	Observe recommendations in the equipment manufacturer's guidance and MSDS. The manufacturer recommends an acceptable exposure limit of 150 ppm on an 8-hr time-weighted average.
		Foam Blowing	
Rigid Polyurethane Appliance Foam.	HFO–1234ze as a substitute for CFCs and HCFCs.	Acceptable ...	HFO–1234ze is non-flammable and has a 100-year global warming potential of 6. Its CAS Reg. No. is 29118–24–9. EPA recommends a preliminary acceptable exposure limit of 375 ppm on an 8-hr time-weighted average. Use of HFO–1234ze must be in accord with EPA's final decision under the Toxic Substances Control Act (TSCA).
	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by the Occupational Safety and Health Administration (OSHA) and the Department of Transportation (DOT) (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.
	Formacel® TI as a substitute for HCFC–22 and HCFC–142b.	Acceptable ...	Observe recommendations in the manufacturer's MSDS and guidance for using these blends.
Rigid Polyurethane Commercial Refrigeration and Sandwich Panels.	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173).
Rigid Polyurethane Spray, Commercial Refrigeration, and Sandwich Panels.	HFO–1234ze as a substitute for CFCs and HCFCs.	Acceptable ...	HFO–1234ze is non-flammable and has a 100-year global warming potential of 6. Its CAS Reg. No. is 29118–24–9. EPA recommends a preliminary acceptable exposure limit of 375 ppm on an 8-hr time-weighted average. Use of HFO–1234ze must be in accord with EPA's final decision under TSCA.
	Blends of HFC–365mfc and HFC–245fa (at least 5% HFC–245fa by weight) as substitutes for HCFC–141b.	Acceptable ...	Blends of HFC–365mfc and HFC–245fa containing at least 5% HFC–245fa by weight are non-flammable. Typical blends contain 30 to 70% HFC–245fa and 70 to 30% HFC–365mfc. Observe recommendations in the manufacturer's MSDS and guidance for using these blends.
	Formacel® TI as a substitute for HCFC–22 and HCFC–142b.	Acceptable ...	Observe recommendations in the manufacturer's MSDS and guidance for using these blends.
Flexible Polyurethane	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.

APPENDIX A—SUMMARY OF ACCEPTABLE DECISIONS—Continued

End-use	Substitute	Decision	Further information
Integral Skin Polyurethane	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.
	Formacel® TI as a substitute for HCFC–22 and HCFC–142b.	Acceptable ...	Observe recommendations in the manufacturer's MSDS and guidance for using these blends.
Polystyrene Extruded Sheet ..	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.
	Formacel® TI as a substitute for HCFC–22 and HCFC–142b.	Acceptable ...	Observe recommendations in the manufacturer's MSDS and guidance for using these blends.
Polyolefin	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.
	Formacel® TI as a substitute for HCFC–22 and HCFC–142b.	Acceptable ...	Observe recommendations in the manufacturer's MSDS and guidance for using these blends.
Rigid Polyurethane Slabstock and Other.	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.
	Formacel® TI as a substitute for HCFC–22 and HCFC–142b.	Acceptable ...	Observe recommendations in the manufacturer's MSDS and guidance for using these blends.
Polystyrene, Extruded Boardstock & Billet.	HFO–1234ze as a substitute for CFCs and HCFCs.	Acceptable ...	HFO–1234ze is non-flammable and has a 100-year global warming potential of 6. Its CAS Reg. No. is 29118–24–9. EPA recommends a preliminary acceptable exposure limit of 375 ppm on an 8-hr time-weighted average. Use of HFO–1234ze must be in accord with EPA's final decision under TSCA.
	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.
	Formacel® TI as a substitute for HCFC–22 and HCFC–142b.	Acceptable ...	Observe recommendations in the manufacturer's MSDS and guidance for using these blends.

APPENDIX A—SUMMARY OF ACCEPTABLE DECISIONS—Continued

End-use	Substitute	Decision	Further information
Rigid Polyurethane & Polyisocyanurate Laminated Boardstock.	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.
	Formacel® TI as a substitute for HCFC–22 and HCFC–142b.	Acceptable ...	Observe recommendations in the manufacturer's MSDS and guidance for using these blends.
Phenolic Insulation Board & Bunstock.	HFC–365mfc as a substitute for HCFC–141b.	Acceptable ...	HFC–365mfc is mildly flammable and has a 100-year global warming potential of 794. Observe recommendations in the manufacturer's MSDS and guidance for using this compound, particularly to address its potential flammability. Follow safe handling and shipping as prescribed by OSHA and DOT (for example, using personal safety equipment and following requirements for shipping hazardous materials at 49 CFR parts 170 through 173). Its CAS Reg. No. is 405–58–6.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0814; FRL–8436–5]

Thiamethoxam; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of thiamethoxam (3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4*H*-1,3,5-oxadiazin-4-imine) and its metabolite CGA-322704, [*N*-(2-chloro-thiazol-5-ylmethyl)-*N*'-methyl-*N*'-nitro-guanidine, calculated as the stoichiometric equivalent of thiamethoxam, in or on: avocado; berry, low growing, subgroup 13-07G, except cranberry; black sapote; bushberry subgroup 13-07B, except lingonberry and blueberry, lowbush; caneberry subgroup 13-07A; canistel; fruit, small, vine climbing, subgroup 13-07F, except fuzzy kiwifruit; mamey sapote; mango; papaya; rice, grain; sapodilla; star apple; and vegetable, root, subgroup 1A. Interregional Research Project Number 4 (IR–4) and Syngenta Crop Protection, Inc., requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). In addition, this regulation amends existing tolerances for combined residues of thiamethoxam and its metabolite CGA-322704 in or on: cattle, meat byproducts; goat, meat byproducts; horse, meat byproducts; and sheep, meat byproducts. Syngenta Crop Protection, Inc., requested these amended tolerances under FFDCA.

DATES: This regulation is effective September 30, 2009. Objections and requests for hearings must be received on or before November 30, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0814. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Julie Chao, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8735; e-mail address: *chao.julie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing electronically available documents at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at

http://www.epa.gov/fedrgstr. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0814 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before November 30, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2008–0814, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Registers** of April 13, 2009 (74 FR 16866) (FRL–8396–6) and August 19, 2009 (74 FR 41898) (FRL–8426–7), EPA issued notices pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions PP 8E7411 and PP 8F7449 by Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201 W., Princeton, NJ 08540, and Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419–8300, respectively. The petitions requested that 40 CFR 180.565 be amended by establishing tolerances for combined residues of the insecticide thiamethoxam (3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4*H*-1,3,5-oxadiazin-4-imine) and its metabolite CGA-322704 [*N*-(2-chloro-thiazol-5-ylmethyl)-*N*'-methyl-*N*'-nitro-guanidine], in or on the following commodities:

PP 8E7411: Avocado at 0.2 parts per million (ppm); canistel at 0.2 ppm; mango at 0.2 ppm; papaya at 0.2 ppm; sapodilla at 0.2 ppm; sapote, black at 0.2 ppm; sapote, mamey at 0.2 ppm; star apple at 0.2 ppm; vegetable, root, subgroup 1A at 0.04 ppm.

In addition, PP 8E7411 proposed to revise the tolerance expression for the Berry Crop Group 13 to become the Berry and Small Fruit Crop Group 13, per the Pesticide Tolerance Crop Grouping Program published in the **Federal Register** of December 7, 2007 (72 FR 69150) (FRL–8343–1). The proposed new tolerance expressions for the Berry and Small Fruit Crop Group 13 for the tolerances in 40 CFR.565 for combined residues of the insecticide thiamethoxam and its metabolite CGA-322704 are as follows, in or on: Bushberry subgroup 13-07B at 0.20 ppm; caneberry subgroup 13-07A at 0.35 ppm; fruit, small, vine climbing subgroup 13-07F, except fuzzy kiwifruit at 0.20 ppm; low growing berry subgroup 13-07G, except cranberry at 0.30 ppm. The existing tolerance on cranberry at 0.02 ppm is retained.

PP 8E7411 also requested that the following tolerances be deleted: Bushberry subgroup 13B at 0.20 ppm; caneberry subgroup 13A at 0.35 ppm; grape at 0.20 ppm; Juneberry at 0.20 ppm; lingonberry at 0.20 ppm; salal at 0.20 ppm; strawberry at 0.30 ppm; and vegetable, root, except sugar beet, subgroup 1B at 0.02 ppm.

PP 8F7449: Rice, bran at 0.02 ppm; rice, grain at 0.02 ppm; rice, hulls at 0.1 ppm; rice, polished at 0.02 ppm; rice, straw at 0.02 ppm.

In addition, *PP 8F7449* requested that 40 CFR 180.565 be amended by increasing tolerances for combined residues of the insecticide thiamethoxam and its metabolite CGA-322704 in or on the following: Cattle, meat byproducts from 0.02 ppm to 0.04 ppm; goat, meat byproducts from 0.02 ppm to 0.04 ppm; horse, meat byproducts from 0.02 ppm to 0.04 ppm; sheep, meat byproducts from 0.02 ppm to 0.04 ppm; vegetable, root, except sugarbeet, subgroup 1B from 0.02 ppm to 0.05 ppm.

The notices referenced summaries of the petitions prepared by Syngenta Crop Protection, Inc., and Interregional Research Project Number (IR-4), the registrants, which are available to the public in the docket EPA–HQ–OPP–2008–0814, *http://www.regulations.gov*. There were no comments received in response to the notices of filing.

Based upon review of the data supporting the petition, EPA has determined that the proposed tolerances for avocado; canistel; mango; papaya; sapodilla; sapote, black; sapote, mamey; star apple; and vegetable, root, subgroup 1A need to be raised. In addition, EPA has determined that no tolerances are needed for rice, bran; rice, hulls; rice, polished; and rice, straw. Finally, EPA is removing existing tolerances that are no longer needed for bushberry subgroup 13B; caneberry subgroup 13A; grape; Juneberry; lingonberry; salal; strawberry; and vegetable, root, except sugar beet, subgroup 1B. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for combined residues of thiamethoxam (3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-

nitro-4*H*-1,3,5-oxadiazin-4-imine) and its metabolite CGA-322704 [*N*-(2-chloro-thiazol-5-ylmethyl)-*N*'-methyl-*N*'-nitro-guanidine], calculated as the stoichiometric equivalent of thiamethoxam, in or on avocado at 0.40 ppm; berry, low growing, subgroup 13-07G, except cranberry at 0.30 ppm; bushberry subgroup 13-07B, except lingonberry and blueberry, lowbush at 0.20 ppm; caneberry subgroup 13-07A at 0.35 ppm; canistel at 0.40 ppm; fruit, small, vine climbing, subgroup 13-07F, except fuzzy kiwifruit at 0.20 ppm; mango at 0.40 ppm; papaya at 0.40 ppm; sapodilla at 0.40 ppm; sapote, black at 0.40 ppm; sapote, mamey at 0.40 ppm; star apple at 0.40 ppm; vegetable, root, subgroup 1A at 0.05 ppm; rice, grain at 0.02 ppm; cattle, meat byproducts at 0.04 ppm; goat, meat byproducts at 0.04 ppm; horse, meat byproducts at 0.04 ppm; sheep, meat byproducts at 0.04 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Thiamethoxam shows toxicological effects primarily in the liver, kidney, testes, and hematopoietic system. In addition, developmental neurological effects were observed in rats. This developmental effect is being used to assess risks associated with acute exposures to thiamethoxam, and the liver and testicular effects are the bases for assessing longer term exposures. Although thiamethoxam causes liver tumors in mice, the Agency has classified thiamethoxam as ''not likely to be carcinogenic to humans'' based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently. The non-cancer (chronic) assessment is sufficiently protective of the key events (perturbation of liver metabolism, hepatotoxicity/regenerative proliferation) in the animal mode of action for cancer. Refer to the **Federal Register** of June 22, 2007 (72 FR 34401) (FRL–8133–6) for more information regarding the cancer classification of thiamethoxam.

Thiamethoxam produces a metabolite known as CGA-322704 (referred to in the remainder of this rule as clothianidin). Clothianidin is also registered as a pesticide. While some of the toxic effects observed following testing with the thiamethoxam and clothianidin are similar, the available information indicates that thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately. A separate risk assessment of clothianidin has been completed in conjunction with the registration of clothianidin. The most recent assessments, which provide details regarding the toxicology of clothianidin, are available in the docket EPA–HQ–OPP– 2008–0814, at *http:///www.regulations.gov*. Refer to the documents *Clothianidin: Human Health Risk Assessment for Proposed Uses on Berries (Group 13-07H), Brassica Vegetables (Group 5), Cotton, Cucurbit Vegetables (Group 9), Fig, Fruiting Vegetables (Group 8), Leafy Green Vegetables (Group 4A), Peach, Pomegranate, Soybean, Tree Nuts (Group 14), and Tuberous and Corm Vegetables (Group 1C);* and *Clothianidin: Human Health Risk Assessment for Proposed Seed Treatment Uses on Root and Tuber Vegetables (Group 1), Bulb Vegetables (Group 3), Leafy Green Vegetables (Group 4A), Brassica Leafy Vegetables (Group 5), Fruiting Vegetables (Group 8), Cucurbit Vegetables (Group 9), and Cereal Grains (Group 15, except rice).*

Specific information on the studies received and the nature of the adverse effects caused by thiamethoxam as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of June 22, 2007.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-, intermediate-, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the level of concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for thiamethoxam used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of June 22, 2007.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiamethoxam, EPA considered exposure under the petitioned-for tolerances as well as all existing thiamethoxam tolerances in 40 CFR 180.565. EPA assessed dietary exposures from thiamethoxam in food as follows:

For both acute and chronic exposure assessments for thiamethoxam, EPA combined residues of clothianidin coming from thiamethoxam with residues of thiamethoxam *per se*. As discussed in this unit, thiamethoxam's major metabolite is CGA-322704, which is also the registered active ingredient clothianidin. Available information indicates that thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately; however, these exposure assessments for this action incorporated the total residue of thiamethoxam and clothianidin from use of thiamethoxam because the total residue for each commodity for which thiamethoxam has a tolerance has not been separated between thiamethoxam

and its clothianidin metabolite. The combining of these residues, as was done in this assessment, results in highly conservative estimates of dietary exposure and risk. A separate assessment was done for clothianidin. The clothianidin assessment included clothianidin residues from use of clothianidin as a pesticide and clothianidin residues from use of thiamethoxam on those commodities for which the pesticide clothianidin does not have a tolerance. As to these commodities, EPA has separated total residues between thiamethoxam and clothianidin.

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed tolerance-level residues of thiamethoxam and clothianidin. It was also assumed that 100% of crops with registered or requested uses of thiamethoxam and 100% of crops with registered or requested uses of clothianidin are treated.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed tolerance level and/or anticipated residues from thiamethoxam field trials. It was also assumed that 100% of crops with registered or requested uses of thiamethoxam and 100% of crops with registered or requested uses of clothianidin are treated.

A complete listing of the inputs used in these assessments can be found in the following documents: *Thiamethoxam Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments for the Section 3 Registration on Rice, Sugar Beets, and Tropical Fruits; Clothianidin Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments*. These documents are available in the docket, EPA–HQ–OPP–2008–0814, at *http://www.regulations.gov*.

iii. *Cancer*. A quantitative cancer exposure assessment is not necessary because EPA concluded that thiamethoxam is ''not likely to be carcinogenic to humans'' based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse, and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently. The non-cancer (chronic) assessment is sufficiently protective of the key events (perturbation of liver metabolism, hepatotoxicity/regenerative proliferation) in the animal mode of action for cancer and thus a separate exposure assessment pertaining to cancer risk is not necessary. Because clothianidin is not expected to pose a cancer risk, a quantitative dietary exposure assessment for the purposes of assessing cancer risk was not conducted.

iv. *Anticipated residue and percent crop treated (PCT) information*. EPA did not use PCT information in the dietary assessments for thiamethoxam or clothianidin.

Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to section 408(f)(1) of FFDCA that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such Data Call-Ins as are required by section 408(b)(2)(E) of FFDCA and authorized under section 408(f)(1) of FFDCA. Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water*. Thiamethoxam is expected to be persistent and mobile in terrestrial and aquatic environments. These fate properties suggest that thiamethoxam has a potential to move into surface water and shallow ground water. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for thiamethoxam in drinking water. Because the Agency does not have comprehensive monitoring data, the Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for thiamethoxam in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of thiamethoxam. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

A Tier I screening-level drinking water assessment was conducted for the proposed rice seed treatment use. Because the proposed uses on rice and cranberries (a registered use) involve flooding, for which Pesticide Root Zone Model/Exposure/Analysis Modeling System (PRZM/EXAMS) is not currently parameterized, these uses were assessed using the modified Tier I Rice Model and the Provisional Cranberry Model. The estimated drinking water concentrations (EDWCs) are based on thiamethoxam concentrations in tail water from rice paddies and cranberry bogs that drain into adjacent surface water bodies. Exposure estimates were refined with a default percent cropped area factor of 87%. The Tier I Rice Model is expected to generate conservative EDWCs that exceed peak measured concentrations of pesticides in water bodies well downstream of rice paddies by less than one order of magnitude to multiple orders of magnitude. Exposure in ground water due to leaching was assessed with the Screening Concentration in Groundwater (SCI-GROW) models.

Based on the Tier I Rice Model and SCI-GROW models, the EDWCs of thiamethoxam for acute exposures are 131.77 parts per billion (ppb) for tail water and 2.93 ppb for ground water. The EDWCs for chronic exposures for non-cancer assessments are 11.31 ppb for tail water and 2.93 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. The most conservative EDWCs in both the acute and chronic exposure scenarios were for tail water, and represent worst case scenarios. Therefore, for the acute dietary risk assessments for thiamethoxam, the upper-bound EDWC value of 131.77 ppb was used to assess the contribution to drinking water. For the chronic dietary risk assessments for thiamethoxam, the upper-bound EDWC value of 11.31 ppb was used to assess the contribution to drinking water.

The registrant has conducted small-scale prospective ground water studies in several locations in the United States to investigate the mobility of thiamethoxam in a vulnerable hydrogeological setting. A review of those data show that generally, residues of thiamethoxam, as well as CGA-322704, are below the limit of quantification (0.05 ppb). When quantifiable residues are found, they are sporadic and at low levels. The maximum observed residue levels from any monitoring well were 1.0 ppb for

thiamethoxam and 0.73 ppb for CGA-322704. These values are well below the modeled estimates summarized in this unit, indicating that the modeled estimates are, in fact, protective of what actual exposures are likely to be.

Clothianidin is not a significant degradate of thiamethoxam in surface– or ground water sources of drinking water and, therefore, was not included in the EDWCs used in the thiamethoxam dietary assessments. For the clothianidin assessments, the acute EDWC value of 7.29 ppb for clothianidin was incorporated into the acute dietary assessment and the chronic EDWC value of 5.88 ppb for clothianidin was incorporated into the chronic dietary assessment.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Thiamethoxam is currently registered for the following uses that could result in residential exposures: Turfgrass on golf courses, residential lawns, commercial grounds, parks, playgrounds, athletic fields, landscapes, interiorscapes, and sod farms; indoor crack and crevice or spot treatments to control insects in residential settings. EPA assessed residential exposure using the following assumptions:

Thiamethoxam is registered for use on turfgrass (on golf courses, residential lawns, commercial grounds, parks, playgrounds, athletic fields, landscapes, interiorscapes and sod farms) and for indoor use to control insects in residential settings. Thiamethoxam is applied by commercial applicators only. Therefore, exposures resulting to homeowners from applying thiamethoxam were not assessed. However, entering areas previously treated with thiamethoxam could lead to exposures for adults and children. As a result, risk assessments have been completed for postapplication scenarios.

Short-term exposures (1 to 30 days of continuous exposure) may occur as a result of activities on treated turf. Short-term and intermediate-term exposures (30 to 90 days of continuous exposure) may occur as a result of entering indoor areas previously treated with a thiamethoxam indoor crack and crevice product. The difference between short- and intermediate-term aggregate risk is the frequency of hand-to-mouth events for children. For short-term exposure there are 20 events per hour and for intermediate-term exposure there are 9.5 events per hour. The doses and end-points for short- and intermediate-term aggregate risk are the same.

EPA combined all non-dietary sources of post application exposure to obtain an estimate of potential combined exposure. These scenarios consisted of adult and toddler dermal postapplication exposure and oral (hand-to-mouth) exposures for toddlers. Since postapplication scenarios for turf occur outdoors, the potential for inhalation exposure is negligible and therefore does not require an inhalation exposure assessment. Since thiamethoxam has a very low vapor pressure (6.6×10^{-9} @ 25°C), inhalation exposure is also expected to be negligible as a result of indoor crack and crevice use. Therefore, a quantitative postapplication inhalation exposure assessment was not performed.

Thiamethoxam use on turf or as an indoor crack and crevice or spot treatment does not result in significant residues of clothianidin. In addition, clothianidin residential and aggregate risks are not of concern. For further details, refer to the documents *Clothianidin: Human Health Risk Assessment for Proposed Uses on Berries (Group 13-07H), Brassica Vegetables (Group 5), Cotton, Cucurbit Vegetables (Group 9), Fig, Fruiting Vegetables (Group 8), Leafy Green Vegetables (Group 4A), Peach, Pomegranate, Soybean, Tree Nuts (Group 14), and Tuberous and Corm Vegetables (Group 1C);* and *Clothianidin: Human Health Risk Assessment for Proposed Seed Treatment Uses on Root and Tuber Vegetables (Group 1), Bulb Vegetables (Group 3), Leafy Green Vegetables (Group 4A), Brassica Leafy Vegetables (Group 5), Fruiting Vegetables (Group 8), Cucurbit Vegetables (Group 9), and Cereal Grains (Group 15, except rice),* available in the docket, EPA–HQ–OPP–2008–0814, at *http:///www.regulations.gov*.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Thiamethoxam is a member of the neonicotinoid class of pesticides and produces, as a metabolite, another neonicotinoid, clothianidin. Structural similarities or common effects do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same sequence of major biochemical events (EPA, 2002). Although clothianidin and thiamethoxam bind selectively to insect nicotinic acetylcholine receptors (nAChR), the specific binding site(s)/receptor(s) for clothianidin, thiamethoxam, and the other neonicotinoids are unknown at this time. Additionally, the commonality of the binding activity itself is uncertain, as preliminary evidence suggests that clothianidin operates by direct competitive inhibition, while thiamethoxam is a non-competitive inhibitor. Furthermore, even if future research shows that neonicotinoids share a common binding activity to a specific site on insect nicotinic acetylcholine receptors, there is not necessarily a relationship between this pesticidal action and a mechanism of toxicity in mammals. Structural variations between the insect and mammalian nAChRs produce quantitative differences in the binding affinity of the neonicotinoids towards these receptors, which, in turn, confers the notably greater selective toxicity of this class towards insects, including aphids and leafhoppers, compared to mammals. While the insecticidal action of the neonicotinoids is neurotoxic, the most sensitive regulatory endpoint for thiamethoxam is based on unrelated effects in mammals, including effects on the liver, kidney, testes, and hematopoietic system. Additionally, the most sensitive toxicological effect in mammals differs across the neonicotinoids (e.g., testicular tubular atrophy with thiamethoxam; mineralized particles in thyroid colloid with imidacloprid).

Thus, EPA has not found thiamethoxam or clothianidin to share a common mechanism of toxicity with any other substances. For the purposes of this tolerance action, therefore, EPA has assumed that thiamethoxam and clothianidin do not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity

and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) safey factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. In the developmental studies, there is no evidence of increased quantitative or qualitative susceptibility of rat or rabbit fetuses to *in utero* exposure to thiamethoxam. The developmental NOAELs are either higher than or equal to the maternal NOAELs. The toxicological effects in fetuses do not appear to be any more severe than those in the dams or does. In the rat developmental neurotoxicity study, there was no quantitative evidence of increased susceptibility.

There is evidence of increased quantitative susceptibility for male pups in two 2–generation reproductive studies. In one study, there are no toxicological effects in the dams whereas for the pups, reduced bodyweights are observed at the highest dose level, starting on day 14 of lactation. This contributes to an overall decrease in bodyweight gain during the entire lactation period. Additionally, reproductive effects in males appear in the F1 generation in the form of increased incidence and severity of testicular tubular atrophy. These data are considered to be evidence of increased quantitative susceptibility for male pups (increased incidence of testicular tubular atrophy at 1.8 milligrams/kilogram/day (mg/kg/day) when compared to the parents (hyaline changes in renal tubules at 61 mg/kg/day; NOAEL is 1.8 mg/kg/day).

In a more recent 2–generation reproduction study, the most sensitive effect was sperm abnormalities at 3 mg/kg/day (the NOAEL is 1.2 mg/kg/day) in the F1 males. This study also indicates increased susceptibility for the offspring for this effect.

Although there is evidence of increased quantitative susceptibility for male pups in both reproductive studies, NOAELs and LOAELs were established in these studies and the Agency selected the NOAEL for testicular effects in F1 pups as the basis for risk assessment. The Agency has confidence that the NOAEL selected for risk assessment is protective of the most sensitive effect (testicular effects) for the most sensitive subgroup (pups) observed in the toxicological database.

3. *Conclusion*.In the final rule published in the **Federal Register** of January 5, 2005 (70 FR 708) (FRL–7689–7), EPA had previously determined that the FQPA SF should be retained at 10X for thiamethoxam, based on the following factors: Effects on endocrine organs observed across species; significant decrease in alanine amino transferase levels in companion animal studies and in dog studies; the mode of action of this chemical in insects (interferes with the nicotinic acetylcholine receptors of the insect's nervous system); the transient clinical signs of neurotoxicity in several studies across species; and the suggestive evidence of increased quantitative susceptibility in the rat reproduction study.

Since that determination, EPA has received and reviewed a developmental neurotoxicity (DNT) study in rats, and an additional reproduction study in rats. Taking the results of these studies into account, as well as the rest of the data on thiamethoxam, EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF for thiamethoxam were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for thiamethoxam is largely complete, including acceptable/guideline developmental toxicity, 2–generation reproduction, and DNT studies designed to detect adverse effects on the developing organism, which could result from the mechanism that may have produced the decreased alanine amino transferase levels. The registrant must now submit, as a condition of registration, an immunotoxicity study. This study is now required under 40 CFR part 158. The available data for thiamethoxam show the potential for immunotoxic effects, which are described in more detail below.

ii. In the subchronic dog study, leukopenia (decreased white blood cells) was observed in females only, at the highest dose tested (HDT) of 50 mg/kg/day; the NOAEL for this effect was 34 mg/kg/day. The overall study NOAEL was 9.3 mg/kg/day in females (8.2 mg/kg/day in males) based on hematology and other clinical chemistry findings at the LOAEL of 34 mg/kg/day (32 mg/kg/day in males).

iii. In the subchronic mouse study, decreased spleen weights were observed in females at 626 mg/kg/day; the NOAEL for this effect was the next lowest dose of 231 mg/kg/day. The overall study NOAEL was 1.4 mg/kg/day (males) based on increased hepatocyte hypertrophy observed at the LOAEL of 14.3 mg/kg/day. The decreased absolute spleen weights were considered to be treatment related, but were not statistically significant at 626 mg/kg/day or at the HDT of 1,163 mg/kg/day. Since spleen weights were not decreased relative to body weights, the absolute decreases may have been related to the decreases in body weight gain observed at higher doses.

iv. Overall, the Agency has a low concern for the potential for immunotoxicity related to these effects for the following reasons:

a. In general, the Agency does not consider alterations in hematology parameters alone to be a significant indication of potential immunotoxicity. In the case of thiamethoxam, high-dose females in the subchronic dog study had slight microcytic anemia as well as leukopenia characterized by reductions in neutrophils, lymphocytes and monocytes; the leukopenia was considered to be related to the anemic response to exposure. Further, endpoints and doses selected for risk assessment are protective of the observed effects on hematology.

b. Spleen weight decreases, while considered treatment-related, were associated with decreases in body weight gain, and were not statistically significant. In addition, spleen weight changes occurred only at very high doses, more than 70 times higher than the doses selected for risk assessment. Therefore, an additional 10X safety factor is not warranted for thiamethoxam at this time.

v. For the reasons discussed in Unit III.D.2., there is low concern for an increased susceptibility in the young.

vi. Although there is evidence of neurotoxicity after acute exposure to thiamethoxam at doses of 500 mg/kg/day including drooped palpebral closure, decrease in rectal temperature and locomotor activity and increase in forelimb grip strength, no evidence of neuropathology was observed. These effects occurred at doses at least fourteen-fold and 416-fold higher than the doses used for the acute, and chronic risk assessments, respectively; thus, there is low concern for these effects since it is expected that the doses used for regulatory purposes would be protective of the effects noted at much higher doses.

vii. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed using tolerance-level and/or anticipated residues that are based on reliable field trial data observed in the thiamethoxam field trials. Although there is available information indicating that

thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately, the residues of each have been combined in these assessments to ensure that the estimated exposures of thiamethoxam do not underestimate actual potential thiamethoxam exposures. An assumption of 100 PCT was made for all foods evaluated in the assessments. For the acute and chronic assessments, the EDWCs of 131.77 ppb and 11.3 ppb, respectively, were used to estimate exposure via drinking water. Compared to the results from small-scale prospective ground water studies where the maximum observed residue levels from any monitoring well were 1.0 ppb for thiamethoxam and 0.73 ppb for CGA-322704, the modeled estimates are protective of what actual exposures are likely to be. Similarly conservative Residential SOPs as well as a chemical-specific turf transfer residue (TTR) study were used to assess post-application exposure to children and incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by thiamethoxam.

viii. In the final rule published in the **Federal Register** of February 6, 2008 (73 FR 6851) (FRL–8346–9), EPA had previously determined that the FQPA SF for clothianidin should be retained at 10X because EPA had required the submission of a developmental immunotoxicity study to address the combination of evidence of decreased absolute and adjusted organ weights of the thymus and spleen in multiple studies in the clothianidin database, and evidence showing that juvenile rats in the 2–generation reproduction study appear to be more susceptible to these potential immunotoxic effects. In the absence of a developmental immunotoxicity study, EPA concluded that there was sufficient uncertainty regarding immunotoxic effects in the young that the 10X FQPA factor should be retained as a database uncertainty factor.

Since that determination, EPA has received and reviewed an acceptable/guideline developmental immunotoxicity study, which demonstrated no treatment-related effects. Taking the results of this study into account, as well as the rest of the data on clothianidin, EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF for clothianidin were reduced to 1X. That decision is based on the following findings:

a. The toxicity database for clothianidin is complete. As noted, the prior data gap concerning developmental immunotoxicity has been addressed by the submission of an acceptable developmental immunotoxicity study.

b. A rat developmental neurotoxicity study is available and shows evidence of increased quantitative susceptibility of offspring. However, EPA considers the degree of concern for the developmental neurotoxicity study to be low for prenatal and postnatal toxicity because the NOAEL and LOAEL were well characterized, and the doses and endpoints selected for risk assessment are protective of the observed susceptibility; therefore, there are no residual concerns regarding effects in the young.

c. While the rat multi-generation reproduction study showed evidence of increased quantitative susceptibility of offspring compared to adults, the degree of concern is low because the study NOAEL and LOAEL have been selected for risk assessment purposes for relevant exposure routes and durations. In addition, the potential immunotoxic effects observed in the study have been further characterized with the submission of a developmental immunotoxicity study that showed no evidence of susceptibility. As a result, there are no concerns or residual uncertainties for prenatal and postnatal toxicity after establishing toxicity endpoints and traditional UFs to be used in the risk assessment for clothianidin.

d. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on assumptions that were judged to be highly conservative and health-protective for all durations and population subgroups, including tolerance-level residues, adjustment factors from metabolite data, empirical processing factors, and 100 PCT for all commodities. Additionally, EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to clothianidin in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children and adults as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by clothianidin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to thiamethoxam will occupy 9.6% of the aPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Acute dietary exposure from food and water to clothianidin is estimated to occupy 23% of the aPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to thiamethoxam from food and water will utilize 42% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Chronic exposure to clothianidin from food and water will occupy 19% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of thiamethoxam and clothianidin is not expected.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Thiamethoxam is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to thiamethoxam. The level of concern for margins of exposure (MOEs) is 100 for aggregate short-term exposures (i.e., MOEs less than 100 indicate potential risks of concern).

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures aggregated result in aggregate MOEs of 370 to 500 for thiamethoxam and 380 to 2,200 for

clothianidin, for all exposure scenarios for infants, children, and adults.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Thiamethoxam is currently registered for uses that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure to thiamethoxam through food and water with intermediate-term exposures for thiamethoxam. The level of concern for MOEs is 100 for aggregate intermediate-term exposures (i.e., MOEs less than 100 indicate potential risks of concern).

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures aggregated result in aggregate MOEs of 370 to 540 for thiamethoxam, and 380 to 2,200 for clothianidin, for all exposure scenarios for infants, children, and adults.

5. *Aggregate cancer risk for U.S. population*. The Agency has classified thiamethoxam as not likely to be a human carcinogen based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently. Thiamethoxam is not expected to pose a cancer risk. Clothianidin has been classified as ''not likely to be a human carcinogen.'' It is not expected to pose a cancer risk.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to thiamethoxam or clothianidin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high-performance liquid chromatography/ultraviolet (HPLC/UV) or mass spectrometry (MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no CODEX or Mexican maximum residue limits (MRLs) for thiamethoxam. A number of Canadian MRLs exist for this chemical and are in accord with U.S. tolerances. The new/revised tolerances established by this rule have been derived using the NAFTA Tolerance Harmonization Spreadsheet.

C. Revisions to Petitioned-For Tolerances

Available field trial data support tolerances for combined residues of thiamethoxam and CGA-322704 in or on avocado, black sapote, canistel, mamey sapote, mango, papaya, sapodilla, and star apple at 0.40 ppm. Therefore, the proposed tolerances of 0.20 ppm for each of these commodities are being raised to 0.40 ppm.

Available field trial data support tolerances for combined residues of thiamethoxam and CGA-322704 in or on vegetable, root, subgroup 1A at 0.05 ppm. Therefore, the proposed tolerance of 0.04 ppm for this subgroup is being raised to 0.05 ppm. In addition, because a group tolerance for vegetable, root, subgroup 1A is being established, the group tolerance for vegetable, root, except sugar beet, subgroup 1B is no longer needed, and is therefore being removed.

Based on the data submitted for rice bran and polished rice, residues were shown not to concentrate in these processed commodities. Therefore, EPA has determined that tolerances are not needed for these commodities. Rice straw and rice hulls are no longer considered significant animal feed items; therefore, the Agency is no longer setting tolerances for these commodities.

New crop group tolerances are being established for caneberry subgroup 13-07A; bushberry subgroup 13-07B, except lingonberry and blueberry, lowbush; fruit, small, vine climbing, subgroup 13-07F, except fuzzy kiwifruit; and berry, low growing, subgroup 13-07G, except cranberry. Therefore, the tolerances for caneberry subgroup 13A; bushberry subgroup 13-07B; grape; Juneberry; lingonberry; salal; and strawberry are no longer needed, and are being removed.

Previously reviewed data support tolerances for combined residues of thiamethoxam and CGA-322704 in or on cattle, goat, horse, and sheep meat byproducts at 0.04 ppm. Therefore, the existing tolerances of 0.02 ppm for each of these commodities are being raised to 0.04 ppm.

V. Conclusion

Therefore, tolerances are established for combined residues of thiamethoxam (3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4*H*-1,3,5-oxadiazin-4-imine) and its metabolite CGA-322704 [*N*-(2-chloro-thiazol-5-ylmethyl)-*N*'-methyl-*N*'-nitro-guanidine], calculated as the stoichiometric equivalent of thiamethoxam, in or on: avocado at 0.40 ppm; berry, low growing, subgroup 13-07G, except cranberry at 0.30 ppm; bushberry subgroup 13-07B, except lingonberry and blueberry, lowbush at 0.20 ppm; caneberry subgroup 13-07A at 0.35 ppm; canistel at 0.40 ppm; fruit, small, vine climbing, subgroup 13-07F, except fuzzy kiwifruit at 0.20 ppm; mango at 0.40 ppm; papaya at 0.40 ppm; sapodilla at 0.40 ppm; sapote, black at 0.40 ppm; sapote, mamey at 0.40 ppm; star apple at 0.40 ppm; vegetable, root, subgroup 1A at 0.05 ppm; rice, grain at 0.02 ppm.

In addition, revised tolerances are established in or on cattle, meat byproducts at 0.04 ppm; goat, meat byproducts at 0.04 ppm; horse, meat byproducts at 0.04 ppm; sheep, meat byproducts at 0.04 ppm.

Tolerances are revoked and removed for bushberry subgroup 13B; caneberry subgroup 13A; grape; Juneberry; lingonberry; salal; strawberry; and vegetable, root, except sugarbeet, subgroup 1B. These tolerances are no longer needed, since residues on these commodities will be covered by the new crop group tolerances being established.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order

12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 22, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.565 is amended by:

a. Revising the introductory text in paragraph (a).

b. Removing the entries for bushberry subgroup 13B; caneberry subgroup 13A; grape; Juneberry; lingonberry; salal; strawberry; and vegetable, root, except sugar beet, subgroup 1B from the table in paragraph (a).

c. Revising the existing entries for cattle, meat byproducts; goat, meat byproducts; horse, meat byproducts; and sheep, meat byproducts in the table in paragraph (a).

d. By alphabetically adding entries for avocado; berry, low growing, subgroup 13-07G, except cranberry; bushberry subgroup 13-07B, except lingonberry and blueberry, lowbush; caneberry subgroup 13-07A; canistel; fruit, small, vine climbing, subgroup 13-07F, except fuzzy kiwifruit; mango; papaya; rice, grain; sapodilla; sapote, black; sapote, mamey; star apple; vegetable, root, subgroup 1A; to the table in paragraph (a) to read as follows:

§ 180.565 Thiamethoxam; tolerances for residues.

(a) Tolerances are established for residues of the insecticide thiamethoxam, including its metabolites and degradates, in or on the following commodities. Compliance with the tolerance levels specified below is to be determined by measuring only thiamethoxam (3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4*H*-1,3,5-oxadiazin-4-imine) and its metabolite CGA-322704 [*N*-(2-chloro-thiazol-5-ylmethyl)-*N*'-methyl-*N*'-nitro-guanidine], calculated as the stoichiometric equivalent of thiamethoxam, in or on the following commodities:

Commodity	Parts per million
* * * * *	
Avocado	0.40
* * * * *	
Berry, low growing, subgroup 13-07G, except cranberry	0.30
* * * * *	
Bushberry subgroup 13-07B, except lingonberry and blueberry, lowbush	0.20
Caneberry subgroup 13-07A	0.35
Canistel	0.40
* * * * *	
Cattle, meat byproducts	0.04
* * * * *	
Fruit, small, vine climbing, subgroup 13-07F, except fuzzy kiwifruit	0.20
* * * * *	
Goat, meat byproducts	0.04
* * * * *	
Horse, meat byproducts	0.04
* * * * *	
Mango	0.40
* * * * *	
Papaya	0.40
* * * * *	
Rice, grain	0.02
* * * * *	
Sapodilla	0.40
* * * * *	
Sapote, black	0.40
Sapote, mamey	0.40
Sheep, meat byproducts	0.04
* * * * *	
Star apple	0.40
* * * * *	
Vegetable, root, subgroup 1A	0.05
* * * * *	

[FR Doc. E9–23628 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910091344–9056–02]

RIN 0648–XR90

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is reopening directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to fully use the C season allowance of the 2009 total

allowable catch (TAC) of pollock specified for Statistical Area 620 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 29, 2009, through 1200 hrs, A.l.t., October 1, 2009. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 15, 2009.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by [RIN 0648-XR90], by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586–7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 620 of the GOA under § 679.20(d)(1)(iii) on August 31, 2009 (74 FR 44772, August 31, 2009).

NMFS has determined that approximately 2,048 mt of pollock remain in the directed fishing allowance in Statistical Area 620 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the C season allowance of the 2009 TAC of pollock in Statistical Area 620, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 620 of the GOA. This will enhance the socioeconomic well-being of harvesters dependent upon pollock in this area. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) the current catch of pollock by the GOA trawl sector and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 48 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GO, effective 1200 hrs, A.l.t., October 1, 2009.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 24, 2009.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 620 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 15, 2009.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 25, 2009.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23578 Filed 9–25–09; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910091344–9056–02]

RIN 0648–XR91

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is reopening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to fully use the C season allowance of the 2009 total allowable catch (TAC) of pollock specified for Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 29, 2009, through 1200 hrs, A.l.t., October 1, 2009. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 15, 2009.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by [RIN], by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Fax: (907) 586–7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying

Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on August 26, 2009 (74 FR 44298, August 28, 2009).

NMFS has determined that approximately 3,215 mt of pollock remain in the directed fishing allowance in Statistical Area 630 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the C season allowance of the 2009 TAC of pollock in Statistical Area 630, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA. This will enhance the socioeconomic well-being of harvesters dependent upon pollock in this area. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) the current catch of pollock by the GOA trawl sector and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 48 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA, effective 1200 hrs, A.l.t., October 1, 2009.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 24, 2009.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 15, 2009.

This action is required by§ 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 25, 2009.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23580 Filed 9–25–09; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 188
Wednesday, September 30, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2009–0105]

Privacy Act of 1974: Implementation of Exemptions; U.S. Immigration and Customs Enforcement–012 Visa Security Program Records (VSPR)

AGENCY: Privacy Office, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement, is giving concurrent notice of a new system of records pursuant to the Privacy Act of 1974 for the U.S. Immigration and Customs Enforcement Visa Security Program Records (VSPR) and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before October 30, 2009.

ADDRESSES: You may submit comments, identified by DHS–2009–0105 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lyn Rahilly, (202–732–3300), Privacy Officer, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Washington, DC 20536; or Mary Ellen Callahan, (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Visa Security Program Records (VSPR) system of records is owned and maintained by the ICE Office of International Affairs (OIA). It consists of paper and electronic records created in support of the Visa Security Program, the purpose of which is to identify persons who may be ineligible for a U.S. visa because of criminal history, terrorism association, or other factors and convey that information to the State Department, which decides whether to issue the visa. VSPR contains records on visa applicants for whom a visa security review is conducted. The Visa Security Program Tracking System (VSPTS–Net) is a new OIA application scheduled to deploy in September 2009 that supports the management of ICE's Visa Security Program. ICE Special Agents use VSPTS–Net to record, track, and manage all visa security reviews performed by ICE. The VSPR system of records describes records maintained in VSPTS–Net and associated paper records.

In support of Section 428 of the Homeland Security Act of 2002, ICE deploys agents to U.S. embassies and consulates (''consular posts'') in high-risk areas worldwide to conduct security reviews of visa applications. ICE agents assigned to the Visa Security Program examine visa applications, initiate investigations of applicants who may be ineligible for a visa, coordinate with other law enforcement entities, and provide advice and training to the State Department staff. Through its Visa Security Program, ICE also participates in the Security Advisory Opinion (SAO) process, which is a U.S. Government mechanism to coordinate third-agency checks on visa applicants about whom the State Department has security-related concerns. Upon request from the State Department, ICE provides information from DHS record systems about visa applicants who are selected to undergo the SAO process. The State Department in turn provides the results of SAO checks to consular officers to aid in adjudicating visa applications. Like the ICE Special Agents located at consular posts abroad, ICE agents and analysts supporting SAO operations identify persons who may be ineligible for a U.S. visa because of criminal history, terrorism association, or other factors and convey that information to the State Department, which decides whether to issue the visa.

VSPTS–Net will be used to support the Visa Security Program activities described above by recording, tracking, and managing the SAOs and visa security reviews and documenting the results that are communicated to the State Department. VSPTS–Net will provide ICE agents with an intranet-based application that manages the workflow associated with visa security reviews and will provide the necessary analytical, reporting and data storage capabilities. VSPTS–Net will also allow users (ICE employees and contractors) to records relevant visa application data, derogatory information about applicants, visa recommendation data. It also supports the generation of performance metrics for the Visa Security program as a whole. Ultimately, the system helps the Visa Security Program and the State Department prevent known and suspected terrorists, criminals, and other ineligible persons from obtaining U.S. visas. A PIA was conducted on VSPTS–Net because it is a new system that will maintain PII information. The VSPTS–Net PIA is available on the Department of Homeland Security (DHS) Privacy Office Web site at *http://www.dhs.gov/privacy.*

The DHS/ICE–012 VSPR system of records will collect, use, disseminate, and maintain PII on persons who apply for a visa and undergo a visa security review. This collection of this information is necessary for ICE to conduct visa security reviews and to provide the State Department with a visa recommendation and/or information that is relevant to the applicant's eligibility for a visa under Federal law.

Consistent with DHS's information sharing mission, information stored in the VSPR system of records may be shared with other DHS components, as

well as appropriate Federal, State, local, Tribal, foreign, or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a need-to-know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in the VSPR system of records notice, also published in this issue of the **Federal Register**.

II. Privacy Act

In this notice of proposed rulemaking, DHS now is proposing to exempt DHS/ICE–012 VSPR, in part, from certain provisions of the Privacy Act. The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals in finding such files within the agency. The Privacy Act also allows Government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a notice of proposed rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for VSPR. Some information in VSPR relates to official DHS national security, law enforcement, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects of inquiry or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of law enforcement sensitive information and investigative techniques; to protect the identities and physical safety of confidential informants and of border management and law enforcement personnel; to ensure DHS's ability to obtain information from third parties and other sources; to protect the privacy of third parties; and to safeguard classified information. Disclosure of information to the subject of the inquiry could also permit the subject to frustrate the purpose of the visa review process or to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for the Department's VSPR system is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for Part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 et seq.; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552.

2. At the end of Appendix C to Part 5, add the following new paragraph ''41'' to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

41. The Visa Security Program Records (VSPR) system of records consists of electronic and paper records and will be used by the Department of Homeland Security (DHS) U.S. Immigration and Customs (ICE). VSPR consists of information created in support of the Visa Security Program, the purpose of which is to identify persons who may be ineligible for a U.S. visa because of criminal history, terrorism association, or other factors and convey that information to the State Department, which decides whether to issue the visa. VSPR contains records on visa applicants for whom a visa security review is conducted. VSPR contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, Tribal, foreign, or international government agencies. Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), and (e)(4)(H), (e)(5) and (e)(8); (f); and (g). Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the individual to the existence of an investigation in the form of a visa security review predicated on classified, national security, law enforcement, foreign government, or other sensitive information. Disclosure of the accounting would therefore present a serious impediment to ICE's Visa Security Program, immigration enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, thereby undermining the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could alert the individual to the existence of an investigation in the form of a visa security review predicated on classified, national security, law enforcement, foreign government, or other sensitive information. Revealing the existence of an otherwise confidential investigation could also provide the visa applicant an opportunity to conceal adverse information or take other actions that could thwart investigative efforts; and reveal the identity of other individuals with information pertinent to the visa security review thereby providing an opportunity for the applicant to interfere with the collection of adverse or other relevant information from such individuals. Access to the records would therefore present a serious impediment to the enforcement of

Federal immigration laws, law enforcement efforts and/or efforts to preserve national security. Amendment of the records could interfere with ICE's ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose classified and other security-sensitive information that could be detrimental to national or homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations of visa applications, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective enforcement of Federal immigration laws, it is appropriate to retain all information that may be relevant to the determination whether an individual is eligible for a U.S. visa.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the visa applicant would alert the subject to the fact of an investigation in the form of a visa security review, and to the existence of adverse information about the individual, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede immigration enforcement activities in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the visa applicant to conceal adverse information, or take other actions that could thwart investigative efforts; reveal the identity of other individuals with information pertinent to the visa security review thereby providing an opportunity for the applicant to interfere with the collection of adverse or other relevant information from such individuals; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative and immigration enforcement efforts as described above.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism, law enforcement, or intelligence investigations to the fact of those investigations when not previously known.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: September 23, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–23523 Filed 9–29–09; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 09013008909096–01]

RIN 0691–AA71

Direct Investment Surveys: BE–10, 2009 Benchmark Survey of U.S. Direct Investment Abroad

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations of the Bureau of Economic Analysis (BEA), Department of Commerce, to set forth the reporting requirements for the 2009 BE–10, Benchmark Survey of U.S. Direct Investment Abroad. The benchmark survey covers the U.S. direct investment abroad universe, and is BEA's most comprehensive survey of such investment in terms of subject matter. Benchmark surveys are conducted every 5 years. The proposed changes for the 2009 benchmark survey include changes in form design and reporting criteria to simplify the forms and improve response rates and changes that would reduce detail collected while considering the current needs of data users and respondent burden. Some of the items that would no longer be collected are those that are now collected on BEA's surveys of international services.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before 5 p.m. November 30, 2009.

ADDRESSES: You may submit comments, identified by RIN 0691–AA71, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. For agency, select ''Commerce Department—all.''
- *E-mail: David.Galler@bea.gov.*
- *Fax:* Office of the Chief, Direct Investment Division, (202) 606–5318.
- *Mail:* Office of the Chief, Direct Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50, Washington, DC 20230.
- *Hand Delivery/Courier:* Office of the Chief, Direct Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50, Shipping and Receiving, Section M100, 1441 L Street, NW., Washington, DC 20005.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent to both BEA through any of the methods above and to the Office of Management and Budget (OMB), O.I.R.A., Paperwork Reduction Project 0608–0049, Attention PRA Desk Officer for BEA, via e-mail at *pbugg@omb.eop.gov,* or by FAX at 202–395–7245.

Public Inspection: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All personal identifying information (for example, name, address, *etc.*) voluntarily submitted by the commentator may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. BEA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: David H. Galler, Chief, Direct Investment Division, BE–50, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9835.

SUPPLEMENTARY INFORMATION: This proposed rule would amend 15 CFR 806.16 to set forth the reporting requirements for the BE–10, Benchmark Survey of U.S. Direct Investment Abroad. The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

The BE–10 survey is a mandatory survey and is conducted every 5 years by BEA under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101–3108 (the Act). BEA will send the survey to potential respondents in March 2010; responses will be due to be filed with BEA not later than May 28, 2010 for those U.S. Reporters filing fewer than 50, and June 30, 2010 for those U.S. Reporters filing 50 or more, foreign affiliate Forms BE–10B, C, and/or D.

Description of Changes

The proposed changes to the benchmark survey include: (a) Changes in survey form design and reporting criteria to simplify the survey forms and improve response rates; and (b) modifications, deletions and additions of specific items on the survey forms. To simplify reporting, BEA is proposing to discontinue the use of separate forms for banks. For 2009, bank and nonbank U.S. Reporters would file Form BE–10A, Report for U.S. Reporter. A U.S. Reporter would report all domestic operations on a fully consolidated basis. The 2004 benchmark survey Form BE–10A BANK would be discontinued. Similarly, Form BE–10B BANK, report for foreign affiliates that are banks, would be discontinued.

As the survey is proposed, all foreign affiliates, regardless of industry, would be filed on one of three foreign affiliate forms—

(a) *Form BE–10B*—Report for majority-owned foreign affiliates with total assets, sales or gross operating revenues, or net income greater than $80 million, positive or negative; additional items would be filed for affiliates with assets, sales, or net income greater than $300 million, positive or negative. Form BE–10B would replace the 2004 benchmark survey Forms BE–10B(LF) long form and BE–10B(SF) short form for reporting large majority-owned foreign affiliates;

(b) *Form BE–10C*—Report for majority-owned foreign affiliates with total assets, sales or gross operating revenues, or net income greater than $25 million, positive or negative, but for which no one of these items is greater than $80 million, positive or negative, and for minority-owned foreign affiliates with total assets, sales or gross operating revenues, or net income greater than $25 million, positive or negative. Form BE–10C would replace the 2004 benchmark survey Form BE–10B(SF) short form for reporting small majority-owned foreign affiliates and minority-owned foreign affiliates; or

(c) *Form BE–10D*—Schedule for foreign affiliates with total assets, sales or gross operating revenues, and net income less than or equal to $25 million, positive or negative. Form BE–10D would replace the 2004 benchmark survey Form BE–10B Mini and the 2004 BE–10A Supplement A schedule for reporting the smallest majority- and minority-owned foreign affiliates.

BEA also proposes to increase the exemption level for reporting of selected items on Form BE–10A from $150 million to $300 million.

In addition to the changes in the reporting criteria, BEA proposes combining or deleting some items on the benchmark survey reporting forms. Changes to the forms for foreign affiliates include combining the category for U.S. exports of ''capital equipment and other goods charged to fixed asset accounts'' with the ''other'' exports category and no longer including financial derivatives in the debt balances between the U.S. Reporter and their foreign affiliates. In addition, BEA proposes to no longer collect selected balance sheet items as separate items: Other current receivables; allowance for doubtful accounts; other current assets; equity investments in other foreign affiliates using cost method; other equity investments; other noncurrent assets; current liabilities and long-term debt; and other noncurrent liabilities. BEA also proposes to discontinue collecting liabilities owed to and receivables due from U.S. Reporters according to the books of U.S. Reporters (liabilities owed to and receivables due from U.S. Reporters according to the books of the foreign affiliate will continue to be collected); the breakdown of total employee compensation between wages and salaries and employee benefit plans and the breakdown of the number of employees and employee compensation by occupational classification; the composition of external finances; number of equity shares and price per share; subsidies received; number of employees who are U.S. citizens; and wholesale and retail trade items (*i.e.,* the cost of goods purchased for resale and inventory of goods purchased for resale).

Changes to the 2009 U.S. Reporter benchmark survey form parallel those proposed for the foreign affiliate forms. BEA proposes to no longer collect the following selected balance sheet items as separate items: Other current assets; noncurrent receivables; other noncurrent assets; other current liabilities and long-term debt; and other noncurrent liabilities. BEA also proposes to no longer collect the breakdown of total employee compensation between wages and salaries and employee benefit plans; the breakdown of number of employees and employee compensation by occupational classification; and information about wholesale and retail trade items.

Several items on cross-border services transactions between affiliated parties will no longer be collected on the benchmark survey because they are now collected on BEA's surveys of international services (BE–45, BE–120, BE–125, and BE–185). For foreign affiliates, the items that will no longer be collected are: (a) Receipts from and payments to a U.S. Reporter for royalties, license fees, and other fees for the use of intangible property, charges for use of tangible property (including film and television tape rentals), and allocated expenses and sales of services (total and by type of service); and (b) receipts from and payments to U.S. persons other than a U.S. Reporter for

royalties, license fees, and other fees for the use, sale, or purchase of intangible property. For U.S. Reporters, the items that will no longer be collected are receipts from and payments to foreign persons other than the U.S. Reporter's foreign affiliates for royalties, license fees, and other fees for the use, sale, or purchase of intangible property. This change allows BEA to collect information about services transactions with affiliated foreign persons on the same forms and with the same level of detail as it collects information about these transactions with unaffiliated foreign persons.

BEA proposes to add a question to Form BE–10A so it can continue to identify U.S. Reporters that are banks even if the majority of their revenues are generated by nonbanking activities. In addition, BEA proposes to add a question that would identify U.S. parent companies that use foreign manufacturing services to process or further manufacture goods that they own. The information collected will help BEA to align its statistics with current international statistical standards, which now recommend that these services be separately identified and reported as services rather than reflected indistinguishably in statistics on trade in goods.

Survey Background

The BEA conducts the BE–10, Benchmark Survey of U.S. Direct Investment Abroad under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101–3108. Section 3103(b) of the Act provides that ''with respect to United States direct investment abroad, the President shall conduct a benchmark survey covering year 1982, a benchmark survey covering year 1989, and benchmark surveys covering every fifth year thereafter.'' In Section 3 of Executive Order 11961, as amended by Executive Orders 12318 and 12518, the President delegated responsibility for performing functions under the Act concerning direct investment to the Secretary of Commerce, who has redelegated it to BEA. Section 3103(b) also instructs the BEA to:

(1) Identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) Obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade, including trade in both goods and services, between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) Collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) Obtain information on tax payments by parents and affiliates by country; and

(5) Determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

The benchmark survey covers the U.S. direct investment abroad universe, and is BEA's most comprehensive survey of such investment in terms of subject matter. U.S. direct investment abroad is defined as the ownership or control, directly or indirectly, by one U.S. person of 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

The purpose of the benchmark survey is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. parent companies and their foreign affiliates. The data are needed to measure the size and economic significance of U.S. direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. These data are used to derive current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. In particular, they would serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the U.S. direct investment position abroad and of the operations of U.S. parent companies and their foreign affiliates.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. The requirement will be submitted to OMB for approval as a reinstatement, with change, of a previously approved collection for which approval has expired under OMB control number 0608–0049.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection displays a currently valid OMB control number.

The BE–10 survey, as proposed, is expected to result in the filing of reports from approximately 3,800 respondents. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 121 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden for the 2009 survey is estimated at 459,400 hours, compared to 428,750 hours estimated for the previous, 2004 survey. The increase in burden hours is associated with an increase in the respondent universe, and is largely offset by changes in survey form design and reporting criteria and information to be collected.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in the proposed rule should be sent to both BEA and OMB following the instructions given in the **ADDRESSES** section above.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. A BE–10 report is required of any U.S. company that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, including a branch—at any time during the U.S. company's 2009 fiscal year. U.S. companies that have direct investments abroad tend to be quite large, and few small U.S. businesses are subject to the reporting requirements of this survey. Also, U.S. businesses that meet the SBA small business standards tend to have few foreign affiliates and the foreign affiliates that they do own are small. BEA estimates that approximately 500 of the approximately 3,800 U.S. parent companies that will be required to respond to the BE–10 benchmark survey are small businesses according to the standards established by the SBA. The number of items required to be reported for a foreign affiliate is determined by the size of the affiliate's assets, sales, and net income. In the BE–10 survey, for the smallest foreign affiliates—those with total assets, sales or gross operating revenues, and net income of less than or equal to $25 million (positive or negative)—only a few selected items would be reported on a schedule-type form, Form BE–10D. To further ease the reporting burden on smaller U.S. companies, U.S. Reporters with total assets, sales or gross operating revenues, and net income less than or equal to $300 million (positive or negative) are required to report only selected items on the BE–10A form for U.S. Reporters, in addition to forms they may be required to file for their foreign affiliates.

Because few small businesses are impacted by this rule, and because those small businesses that are impacted are subject to only minimal recordkeeping burdens, the Chief Counsel for Regulation certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, Multinational corporations, Penalties, Reporting and recordkeeping requirements, U.S. investment abroad.

Dated: August 19, 2009.

Rosemary D. Marcuss,

Acting Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to revise 15 CFR Part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173) and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.16 is revised to read as follows:

§ 806.16 Rules and regulations for BE–10, Benchmark Survey of U.S. Direct Investment Abroad—2009.

A BE–10, Benchmark Survey of U.S. Direct Investment Abroad will be conducted covering 2009. All legal authorities, provisions, definitions, and requirements contained in § 806.1 through § 806.13 and § 806.14(a) through (d) are applicable to this survey. Specific additional rules and regulations for the BE–10 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE–10, Benchmark Survey of U.S. Direct Investment Abroad—2009, contained herein, whether or not they are contacted by BEA. Also, a person, or their agent, that is contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond in writing pursuant to § 806.4. This may be accomplished by:

(1) Certifying in writing, by the due date of the survey, to the fact that the person had no direct investment within the purview of the reporting requirements of the BE–10 survey;

(2) Completing and returning the ''BE–10 Claim for Not Filing'' by the due date of the survey; or

(3) Filing the properly completed BE–10 report (comprising Form BE–10A and Form(s) BE–10B, BE–10C, and/or BE–10D) by May 28, 2010, or June 30, 2010, as required.

(b) *Who must report.* (1) A BE–10 report is required of any U.S. person that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, including a branch—at any time during the U.S. person's 2009 fiscal year.

(2) If the U.S. person had no foreign affiliates during its 2009 fiscal year, a ''BE–10 Claim for Not Filing'' must be filed by the due date of the survey; no other forms in the survey are required. If the U.S. person had any foreign affiliates during its 2009 fiscal year, a BE–10 report is required and the U.S. person is a U.S. Reporter in this survey.

(3) Reports are required even if the foreign business enterprise was established, acquired, seized, liquidated, sold, expropriated, or inactivated during the U.S. person's 2009 fiscal year.

(4) The amount and type of data required to be reported vary according to the size of the U.S. Reporters or foreign affiliates, and, for foreign affiliates, whether they are majority-owned or minority-owned by U.S. direct investors. For purposes of the BE–10 survey, a ''majority-owned'' foreign affiliate is one in which the combined direct and indirect ownership interest of all U.S. parents of the foreign affiliate exceeds 50 percent; all other affiliates are referred to as ''minority-owned'' affiliates.

(c) *Forms to be filed.*—(1) Form BE–10A must be completed by a U.S. Reporter. If the U.S. Reporter is a corporation, Form BE–10A is required to cover the fully consolidated U.S. domestic business enterprise.

(i) If for a U.S. Reporter any one of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—was greater than $300 million (positive or negative) at any time during the Reporter's 2009 fiscal year, the U.S. Reporter must file a complete Form BE–10A. It must also file Form(s) BE–10B, C, and/or D, as appropriate, for its foreign affiliates.

(ii) If for a U.S. Reporter none of the three items listed in paragraph (c)(1)(i) of this section was greater than $300 million (positive or negative) at any time during the Reporter's 2009 fiscal year, the U.S. Reporter is required to file on Form BE–10A only certain items as designated on the form. It must also file Form(s) BE–10B, C, and/or D for its foreign affiliates.

(2) Form BE–10B must be reported for each majority-owned foreign affiliate, whether held directly or indirectly, for which any of the following three items—total assets, sales or gross

operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $80 million (positive or negative) at any time during the affiliate's 2009 fiscal year. Affiliates with assets, sales, or net income greater than $300 million (positive or negative) would file additional items.

(3) Form BE–10C must be reported:

(i) For each majority-owned foreign affiliate, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2) of this section was greater than $25 million but for which none of these items was greater than $80 million (positive or negative), at any time during the affiliate's 2009 fiscal year, and

(ii) For each minority-owned foreign affiliate, whether held directly or indirectly, for which any one of the three items listed in (c)(2) of this section was greater than $25 million (positive or negative), at any time during the affiliate's 2009 fiscal year.

(4) Form BE–10D must be reported for majority- or minority-owned foreign affiliates, whether held directly or indirectly, for which all of the three items listed in paragraph (c)(2) of this section were less than or equal to $25 million (positive or negative) at any time during the affiliate's 2009 fiscal year. Form BE–10D is a schedule; a U.S. Reporter would submit one or more pages of the form depending on the number of affiliates that are required to be filed on this form.

(d) *Due date.* A fully completed and certified BE–10 report comprising Form BE–10A and Form(s) BE–10B, C, and/or D (as required) is due to be filed with BEA not later than May 28, 2010 for those U.S. Reporters filing fewer than 50, and June 30, 2010 for those U.S. Reporters filing 50 or more, foreign affiliate Forms BE–10B, C, and/or D. If the U.S. person had no foreign affiliates during its 2009 fiscal year, it must file a BE–10 Claim for Not Filing by May 28, 2010.

[FR Doc. E9–23586 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–R09–OAR–2009–0598; FRL–8964–2]

Assessment of Anticipated Visibility Improvements at Surrounding Class I Areas and Cost Effectiveness of Best Available Retrofit Technology for Four Corners Power Plant and Navajo Generating Station: Advanced Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: EPA is announcing an extension of the public comment period on our Advanced Notice of Proposed Rulemaking (ANPR) regarding our assessment of anticipated visibility improvements at surrounding Class I areas and the cost effectiveness of Best Available Retrofit Technology (BART) for Four Corners Power Plant and Navajo Generating Station (August 28, 2009). Through this notice, EPA extends the close of the ANPR comment period from September 28, 2009 until October 28, 2009.

EPA is extending the comment period as a result of requests from the Hopi Tribe and the Navajo Nation for additional time to comment on the ANPR. EPA is granting the requests from the Hopi Tribe and the Navajo Nation notwithstanding the earlier denials by EPA of several extension requests made by other stakeholders. The basis for those earlier denials is that the ANPR is not a rulemaking action and therefore does not make any decisions or propose any control options as BART. Additionally, the ANPR is limited in scope and focused only on variables that were used to model visibility improvement at the surrounding Class I areas and the cost effectiveness of different control options. Therefore, EPA determined that a 30-day comment period in advance of our actual proposal was adequate, as the ANPR by itself only seeks the submittal of information. However, because the Hopi Tribe and the Navajo Nation are affected tribes located in the area impacted by the Navajo Generating Station and Four Corners Power Plant, EPA is extending the comment period to provide greater opportunity for discussion between EPA and affected Tribes. EPA is also extending the public comment period for all other interested parties.

Although the Hopi Tribe and the Navajo Nation requested a longer extension period, EPA believes a 30-day extension is sufficient, as there will be ample additional opportunity to provide comments once we propose our BART determinations for the Four Corners Power Plant and Navajo Generating Station in the near future.

DATES: The comment period for the Advanced Notice of Proposed Rulemaking published at 74 FR 44313, August 28, 2009 is extended. Comments must be received on or before October 28, 2009.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2009–0598, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.

2. *E-mail: lee.anita@epa.gov*.

3. *Mail or deliver:* Anita Lee (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this ANPR is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Anita Lee, EPA Region IX, (415) 972–3958, *lee.anita@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we'', ''us'', and ''our'' refer to EPA.

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. Submitting CBI. Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify this ANPR by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

B. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of the Advanced Notice of Proposed Rulemaking is available at *http://www.epa.gov/region09/air/navajo/index.html#upcoming*. Following signature by the EPA Regional Administrator, a copy of this extension notice will be posted at the same Web site.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 22, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E9–23633 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 080228322–8338–01]

RIN 0648–AW24

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Observer Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes this rule to amend regulations supporting the North Pacific Groundfish Observer Program (Observer Program). This action is necessary to improve the operational efficiency of the Observer Program, as well as improve the catch, bycatch, and biological data provided by observers for conservation and management of the North Pacific groundfish fisheries, including that provided through scientific research activities. The proposed rule is intended to promote the goals and objectives of the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area and the FMP for Groundfish of the Gulf of Alaska.

DATES: Written comments must be received by October 30, 2009

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by ''RIN 0648–AW24,'' by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*.
- Mail: P.O. Box 21668, Juneau, AK 99802.
- Fax: 907–586–7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov* or by fax to 202–395–7285.

Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action may be obtained from the NMFS Alaska Region website at *http://alaskafisheries.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Brandee Gerke, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries in the Exclusive Economic Zone (EEZ) of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) under the FMP for Groundfish of the BSAI and the FMP for Groundfish of the GOA, respectively. The North Pacific Fishery Management Council (Council) prepared these FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1851–1891d. Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

The Observer Program provides the administrative framework for observers to obtain information necessary for the conservation and management of the groundfish fisheries managed under the FMPs. Regulations implementing the Observer Program at § 679.50 require observer coverage aboard catcher vessels, catcher/processors, motherships, and shoreside and stationary floating processors that participate in the groundfish fisheries off Alaska. These regulations also establish vessel, processor, and observer provider responsibilities relating to the Observer Program.

This proposed rule would amend regulations at § 679.2 and § 679.50 applicable to observer providers, observers, and industry required to carry observers. The proposed regulatory amendments are organized under six issues and would: remove regulations that are unnecessary, impractical to apply, or are considered to be unenforceable; revise regulations to explicitly allow observer providers to provide observers for exempted fishing permit-based and scientific research permit-based activities; add regulations to prohibit activities that result in non-representative fishing behavior from counting toward an observer coverage day; require observer providers to report to NMFS information about the cost of providing observers; and establish a deadline when observer providers must submit to NMFS, an exemplary copy of each of type of contract they enter into with observers and the fishing industry to NMFS. The Council selected a preferred alternative for each of these issues at its April 2008 meeting. This action is necessary to improve the operational efficiency of the existing Observer Program, as well as to improve the catch, bycatch, and biological data provided by observers for conservation and management of the North Pacific groundfish fisheries, including those provided through scientific research activities.

Issue 1: Observer Certification and Observer Provider Permitting Process

Persons seeking to provide observer services or work as an observer under § 679.50 must obtain an observer provider permit or observer certification, respectively, from NMFS. The granting or denial of observer provider permits and observer certifications are discretionary agency actions. This proposed rule expands NMFS' discretion to consider additional needs and objectives of the Observer Program and other relevant factors when considering whether or not to issue a new observer provider permit or observer certification.

Existing regulations at § 679.50 obligate NMFS to grant a provider permit to an applicant who submits a complete application, meets narrowly-defined criteria regarding criminal history and past performance on federal contracts, and has no conflict(s) of interest with the fishing industry. These regulations prevent NMFS from exercising its discretion to not issue permits when other concerns or inconsistencies with the Observer Program's goals and objectives have been identified in a permit application. This proposed rule would expand NMFS' discretion by broadening the conditions the observer provider permit application review board may consider in deciding whether or not to issue a new permit. Moreover, this proposed rule would remove the application evidentiary period at § 679.50(i)(1)(iv). This would allow NMFS to tailor a time period in which an applicant may provide additional information on a case-by-case basis.

Current regulations at § 679.50(j)(1)(iv) provide an appeal forum to a candidate for observer certification who fails training to the extent that the program certification official determines that the candidate demonstrates ''unresolvable deficiencies'' and should not be allowed to re-enter a subsequent training class. Most candidates who fail the initial training are permitted to retake it. However, in the rare instance that a candidate's performance is deficient to the extent he or she is unlikely to improve performance, the certification official can issue an Initial Agency Decision (IAD) denying readmission into a training class. The same appeal forum is provided at § 679.50(i)(1)(v) for an observer provider applicant who is denied an observer provider permit. As explained in the RIR/IRFA for this proposed rule, the appeal forum at § 679.50(j)(1)(iv) has only been activated on two occasions and has not resulted in the subsequent certification of an observer candidate. One appeal resulted in the decision that an observer could retake training; however, that candidate never returned to training. When it has been activated, the appeal process requires both Observer Program staff and NOAA General Counsel to devote a substantial amount of time to the appeal. Moreover, the appellate forum process can consume up to a year before an appeal is resolved, a situation that does not facilitate an observer candidate's interest in obtaining training and a certification for employment within reasonable time frame. Therefore, NMFS proposes to remove the appeal forum provided for observer candidates who fail training and who are notified that they may not retake the course, and for observer provider applicants whose permit applications are denied to better allocate scarce agency resources. This proposed rule does not affect the ability of observers and observer providers to appeal any decision to revoke or sanction a certification or permit that is already issued.

Issue 2: Observer Conduct

Current regulations at § 679.50(j)(2)(ii)(D) attempt to control observer conduct so that certified observers present themselves professionally on vessels, at plants, at NMFS sites, and in fishing communities. NMFS has found these regulations impractical to apply and potentially unenforceable. For example, for NMFS to decertify an observer who has violated the Observer Program's drug and alcohol policy, or the regulation that prohibits observers from engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, NMFS must establish connection between the unsanctioned behavior and the collection of reliable fisheries data. Proving that such a connection exists, especially in cases in which the unsanctioned behavior occurs outside of the workplace, can be very difficult. Moreover, some of the observer conduct regulations are vague and impractical to apply. For example, current regulations require observers to ''refrain from engaging in any activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole.'' (50 CFR 679.50(j)(2)(ii)(D).). The regulations offer observers no guidance as to the types of behavior that is prohibited, nor does NMFS have any practical means to enforce adherence to these vague standards.

Due to the impracticality of applying these regulations and proving these connections, NMFS has determined that it should not attempt to regulate observer behavior that does not directly affect observer job performance and views the prescription of conduct standards as an employer responsibility. Therefore, NMFS proposes to remove current regulations at § 679.50(j)(2)(ii)(D) that attempt to control observer behavior related to activities involving drugs, alcohol, and physical sexual conduct, and to remove references to the Observer Program's drug and alcohol policies in the regulations.

In recognition of the fact that drug and alcohol use and physical sexual activity while deployed may affect an observer's ability to perform his or her duties and may compromise workplace safety, regulations would be revised to require each observer provider to have a policy addressing observer conduct and behavior related to drugs, alcohol, and physical sexual conduct. Each provider would be required to submit a copy of its policy to NMFS by February 1 of each year. A requirement would be added under § 679.50(i)(2) that observer providers notify NMFS within 72 hours upon determination that an observer has

violated the provider's conduct policy. This notification shall include the facts and circumstances of the violation. NMFS intends to use this information when assessing observer performance and quality of data collection.

NMFS would not define standards for these policies; thus, providers would exercise discretion when developing their policies. However, NMFS continues to have an interest in the providers' conduct policies. Thus, if NMFS determines that the providers' policies lead to a negative impact on the quality of data collected by observers, NMFS would reconsider this action. If that occurs, NMFS would have to consider additional authorization and funding to institute an effective system to regulate observer conduct and behavior.

Issue 3: Providing Observers for Research Activities

Current regulations at § 679.50(i)(3)(i) prohibit observer providers from having a direct financial interest, other than the provision of observer services, in a North Pacific fishery managed under an FMP. However, observer providers have historically provided observers and ''scientific data collectors'' to researchers operating under exempted fishing permits (EFPs) and scientific research permits (SRPs). While the regulations do not specifically prohibit observer providers from providing observers or scientific data collectors in support of these activities, they are ambiguous as to whether these activities are allowed under the conflict of interest regulation. This proposed rule would clarify that observer providers are not prohibited from supplying observers and scientific data collectors for fishing conducted pursuant to EFPs and for scientific research activities.

Issue 4: Fishing Day Definition

Regulations at § 679.50(c)(1)(v) require a catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) length overall (LOA), but less than 125 ft (38.1 m) LOA, to carry an observer for at least 30 percent of its fishing days per calendar quarter and at all times during at least one fishing trip per calendar quarter while directed fishing for groundfish. A ''fishing day'' is defined at § 679.2 as a 24-hour period, from 0001 hours Alaska local time (A.l.t.) through 2400 hours A.l.t., in which fishing gear is retrieved and groundfish are retained. Under these regulations, an observer must be onboard a vessel only at some point, no matter how briefly, during a 24-hour period when fishing occurs and groundfish are retained, to count as a ''fishing day'' for the purpose of observer coverage requirements. While many vessels operate with an observer as they would without an observer, NMFS suspects that others intentionally alter their fishing pattern to meet minimum observer coverage requirements. Often, these fishing events are not representative of normal fishing duration, location, and depth, and catch composition may vary significantly from that associated with the vessel's normal, legitimate fishing pattern. These non-representative events bias the observer information NMFS relies on for effective management of the groundfish fisheries.

NMFS' Office of Law Enforcement has also documented instances in which vessel operators intentionally structure fishing activities to fish unobserved until late in the day, pick up an observer and make a short tow prior to midnight, make one more tow immediately after midnight, and then return the observer to port. Additional fishing activities then occur during the remainder of the second day, during which the observer is not onboard. Under the current regulations, this scenario counts for two ''observer'' days and may result in biased observer data.

To reduce the potential for biasing observer data, the proposed rule would revise the definition of ''fishing day'' at § 679.2 to be a 24-hour period, from 1201 hours A.l.t. through 1200 hours A.l.t., in which fishing gear is retrieved and groundfish are retained. It will require that an observer be on board for all gear retrievals during the 24-hour period in order to count as a day of observer coverage. Days during which a vessel only delivers unsorted codends to a processor will not be considered fishing days, as is currently the case.

This revision would reduce the cost-effectiveness of making a fishing trip solely to manipulate observer coverage requirements. Revising the definition of the 24-hour period from the current midnight-to-midnight definition (from 0001 hours through 2400 hours Alaska local time) to a noon to noon definition (1201 hours through 1200 hours Alaska local time) is intended to discourage vessels from making sets or tows solely for the purpose of obtaining observer coverage around the transitional hours from one fishing day to the next.

Issue 5: Observer Cost Information

Under the current system for Alaska groundfish fishery observer services, vessels and plants required to take observers under § 679.50 contract directly with certified observer providers. Because NMFS is not a party to the contracts, NMFS lacks information on the actual costs for observer coverage incurred by the groundfish fishery. Without this information, NMFS has had to rely on estimates of the average daily cost of observer coverage across all North Pacific groundfish fisheries to assess the economic effects of various management regimes on impacted entities. Industry has commented that although observer costs vary by region and sector, NMFS' estimates do not take that variability into account. Several factors affect the daily cost of observer coverage; for example, deploying observers to remote locations for short periods of time results in higher costs per day than deploying observers to ports with regularly scheduled air service or in fisheries of substantial duration. NMFS' analyses would be improved by the acquisition of actual cost information.

The MSA authorizes the collection of fees from North Pacific fishery participants to pay for implementing a fisheries research plan, including observer coverage. More accurate information on the cost of the existing observer program would help the Council and NMFS determine appropriate fees and the extent of observer coverage afforded by those fees when a fee-based research plan is developed and implemented.

This proposed rule would require observer providers to submit to NMFS copies of all individual invoices for observer coverage in the North Pacific groundfish fishery. Every third year would be a reporting year for submitting invoices. Observer providers would be required to submit these invoices to NMFS for a full calendar year in each reporting year. If the program were implemented in 2010, providers would be required to submit copies of actual invoices during 2010. Invoices would be submitted again in the next reporting year (e.g., 2013, 2016, 2019).

The Council recommended that observer providers submit copies of actual invoices to NMFS because these are less burdensome than requiring the providers to prepare and submit summarized expense reports; it allows NMFS to understand the full cost of providing observer coverage in the groundfish fisheries off Alaska; it provides for verifiable data; and it allows for increased flexibility in data analysis compared to requiring summarized information from providers. The RIR/IRFA for this action recognizes that under this alternative the primary burden for data-entry and analysis would be shifted from the observer providers to NMFS. However, this alternative would provide NMFS with independently verifiable

information and enhanced analytical flexibility over collecting summarized expense reports from the observer providers because NMFS will be able to confirm the number of days an observer was deployed to a particular vessel and bin the raw invoice information as analytical needs dictate.

As these invoices contain proprietary business information, NMFS will consider this information as business confidential information afforded the protections of section 402 of the MSA. Accordingly, NMFS will collect and maintain this information as it does with other confidential data, and will limit access to unaggregated invoice information to NMFS staff.

The Council also recommended a three-year invoice submission cycle to accommodate ongoing data collection while minimizing the reporting burden on observer providers. NMFS has found shortcomings with the three-year data collection cycle preferred by the Council, as it would delay NMFS' ability to detect trends in observer coverage costs and limit the precision in evaluating the temporal variability of these costs. The Council's preferred alternative would not allow for a complete, continuous overview of the industry's Observer Program costs due to the three-year lapse between data collection cycles; however, it would provide information that NMFS currently needs and lacks. The Council could revisit this issue in the future should NMFS and the Council determine that data are needed more frequently from observer providers.

During a reporting year, within 45 days of the invoice date, observer providers would be required to submit to NMFS a copy of each invoice for services provided that year. NMFS seeks public comment on this submission deadline to help determine if this time period is reasonable for observer providers to provide copies of invoices to NMFS. Invoices shall include the following information: the name of each individual catcher/processor, catcher vessel, mothership, stationary floating processor, or shoreside processing plant to which the invoice applies; the name of the observer who worked aboard each catcher/processor, catcher vessel, mothership, stationary floating processor, or shoreside processing plant; the dates of service for each observer on each catcher/processor, catcher vessel, mothership, stationary floating processor, or shoreside processing plant; the rate charged in dollars per day for observer services; the total charge for observer services (number of days multiplied by daily rate); the amount charged for air transportation; and the amount charged for other expenses, such as ground transportation, lodging, or excess baggage. These charges would be required to be separated and identified.

Issue 6: Miscellaneous Revisions

The proposed rule would establish a deadline by which observer providers must submit to NMFS an exemplary copy of a contract between the provider and the observer and the provider and the vessel or plant operator requiring observer service in the groundfish fisheries off Alaska. Existing regulations at § 679.50 require the submission of these contracts; however no deadline is specified. This proposed rule would establish a submission deadline of February 1 of each year, which corresponds with the deadline for submitting certificates of insurance required by § 679.50(i)(2)(x)(F). This issue was referenced as Issue 7 in the RIR/IRFA; however, the Council selected the ''no action'' alternative for Issue 6. Thus, for the purposes of this proposed rulemaking, this miscellaneous revision now comprises Issue 6.

Two other miscellaneous revisions analyzed under this issue in the RIR/IRFA have been subsequently removed from the proposed rule. The first minor revision would have corrected an erroneous reference to observer workload restrictions at § 679.50(c)(5)(i)(A). In developing this proposed rule it came to NMFS' attention that additional corrections to § 679.50(c)(5) were needed. Thus, this reference will be corrected in a separate rule making and is not addressed in this proposed rule. The other miscellaneous revision included in the RIR/IRFA would have corrected references to NMFS' Alaska Fisheries Science Center, Fisheries Monitoring and Analysis Division website throughout the regulations at § 679.50, as the existing reference is now invalid. Because website references and content are subject to change, NMFS is proposing to exclude references to the Fisheries Monitoring and Analysis Division website from the regulations. This revision under Issue 6 is expected to have the intended effect of the Council's motion as the erroneous references will be revised in the regulations.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the regulatory amendment, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The IRFA for this proposed action describes in detail the reasons why this action is being proposed; describes the objectives and legal basis for the proposed rule; describes and estimates the number of small entities to which the proposed rule would apply; describes any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; identifies any overlapping, duplicative, or conflicting Federal rules; and describes any significant alternatives to the proposed rule that accomplish the stated objectives of the MSA and any other applicable statutes that would minimize any significant adverse economic impact of the proposed rule on small entities.

The description of the proposed action, its purpose, and its legal basis are described elsewhere in the preamble and are not repeated here. The directly regulated entities are different under the different issues addressed in this proposed rule. Because the RFA is applicable only to businesses, non-profit organizations, and governments, observers fall outside of the RFA's scope, and are therefore not discussed in the IRFA.

Five observer provider companies are currently holding observer provider permits and are active in the North Pacific. These entities would be directly regulated by the proposed actions under Issues 2, 3, 5 and 6. All of the current observer provider companies are considered small entities under the RFA. The potential number of small observer provider firms that may be interested in obtaining a permit to provide observer services in the future would be regulated under Issue 1. However, the potential number of observer provider firms cannot be estimated, and because they represent a future scenario, they are not considered

directly regulated under the proposed action.

Trawl and hook-and-line catcher vessels (CVs) and catcher processors (CPs) subject to the 30 percent observer coverage requirements would be directly regulated by the proposed action in Issue 4. Trawl and hook-and-line CVs between 60 feet and 125 feet LOA and hook-and-line CPs between 60 feet and 125 feet LOA in the BSAI and GOA, with the exception of vessels participating in specific programs that require 100 percent observer coverage, would be directly regulated by actions under Issue 4. AFA trawl CVs subject to the 30 percent observer coverage requirements are categorized as large entities for the purpose of the RFA due to their affiliation with one another through the American Fisheries Act (AFA) pollock harvest cooperatives.

The table below summarizes all of the potentially directly regulated small entities, by sector, under Issue 4 of the proposed action. The IRFA likely overestimates the number of directly regulated small entities. NMFS does not have access to data on ownership and other forms of affiliation for most segments of the fishing industry operating off Alaska, nor does NMFS have information on the combined annual gross receipts for each entity by size. Absent these data, a more precise characterization of the size composition of the directly regulated entities impacted by this action cannot be offered.

TABLE 1. ESTIMATE OF THE NUMBER OF SMALL ENTITIES POTENTIALLY DIRECTLY REGULATED BY ISSUE 4 OF THE PROPOSED ACTION.

Sector	2006	2007
Observer Providers	5	5
Trawl CV >60' and ≤125'	39	23
Trawl CP >60' and ≤125'	12	10
H&L CV >60' and ≤125'	97	74
H&L CP >60' and ≤125'	11	11

Proposed actions under Issue 2 and Issue 5 would require additional recordkeeping and reporting requirements for the five observer providers currently supplying services to the Observer Program. Issue 6 actions would impose a deadline for submission of information that is already required of observer providers under existing regulations. Issue 2 actions would require observer providers to have observer policies related to alcohol, drugs, and sexual contact; provide NMFS a copy of the conduct policy by February 1 of each year; and to notify (including the underlying facts and circumstances) NMFS of a violation of the observer provider's policies within 72 hours after the provider determines that an observer violated a policy. Current regulations at § 679.50(i)(2)(x)(I) require observer providers to notify NMFS of other types of conduct violations within 24 hours of becoming aware of the alleged violation; thus, this proposed action does not substantially alter that reporting requirement. It may take 20 minutes or less for an employee of the observer provider company to report this information to NMFS as fax or email are acceptable means of communication.

The proposed rule under Issue 5 would require observer providers to submit copies of billing invoices to NMFS for a full year, every third year. This recordkeeping and reporting requirement will not require the observer providers to modify or interpret their billing invoices. Observer provider companies should incur minor costs associated with copying and transmitting copies of their actual billing invoices to NMFS under the proposed rule for Issue 5. NMFS estimates that approximately six hours a year would be required for observer providers to email their invoices to NMFS with no additional expenses anticipated because observer providers have computers with internet access. If an observer provider mails copies of his or her invoices to NMFS, it is estimated to cost the observer provider approximately $48 per year for paper, envelopes, and postage in addition to six hours of labor expected for copying and mailing.

The proposed rule under Issue 6 slightly modifies existing regulations by imposing a February 1 deadline for observer providers to submit to NMFS each type of contract they have entered into with observers or the fishing industry. Because regulations already require observer provider companies to submit this information to NMFS, and because most observer provider companies have been submitting this information by February 1 in the past, this regulatory amendment should impose virtually no additional net burden on the observer provider companies.

The analysis revealed no Federal rules that would conflict with, overlap, or be duplicated by the alternatives under consideration.

With regard to the economic burden of the proposed rule on small entities, the Council selected the least economically burdensome alternatives that met the purpose and need for action based upon the analysis in the RIR and IRFA. The Council selected the only action alternative under Issue 2 and Issue 6. There were three action alternatives for Issue 5 and the Council selected the least economically burdensome alternative for observer providers by rejecting alternatives that would require providers to compile annual expense reports summarized by fishery or expense category. The alternative that would require observer providers to submit copies of invoices already being prepared as part of their standard bookkeeping was determined to be less burdensome than the other alternatives. The Council sought to further reduce the economic burden on observer providers by requiring them to submit copies of their invoices only once every three years.

Collection-of-Information

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval under OMB Control Number 0648–0318. Public reporting burden is estimated to average 30 minutes per individual response for Copies of Invoices; 15 minutes for Observer Provider Contract Copies; two hours for Other Reports; 40 hours for Appeals for Observer Provider Permit Expiration or Denial of Permit (this item is removed with this action); and 40 hours for Observer Conduct and Behavior Policy, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The PRA package submitted for this proposed rule estimated that it will cost each observer provider $1500 per reporting year to comply with this information submission requirement.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS Alaska Region at the **ADDRESSES** above, and e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 24, 2009.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108—447.

2. In § 679.2, revise the definition of ''Fishing day'' to read as follows:

§ 679.2 Definitions.

* * * * *

Fishing day means (for purposes of subpart E of this section) a 24-hour period, from 1201 hours A.l.t. through 1200 hours A.l.t., in which fishing gear is retrieved and groundfish are retained. An observer must be on board for all gear retrievals during the 24-hour period in order to count as a day of observer coverage. Days during which a vessel only delivers unsorted codends to a processor are not fishing days.

* * * * *

3. In § 679.50:

A. Remove and reserve paragraph (i)(1)(iii)(B) and remove paragraphs (i)(1)(iv), (i)(2)(i)(C)(*1*), (j)(1)(iv)(B), and (j)(2)(ii)(D).

B. Redesignate paragraphs (i)(1)(v) through (viii) as paragraphs (i)(1)(iv) through (vii) respectively.

C. Redesignate paragraphs (i)(2)(i)(C)(*2*) through (*4*) as paragraphs (i)(2)(i)(C)(*1*) through (*3*), respectively.

D. Redesignate paragraphs (i)(2)(iii) through (xii) as paragraphs (i)(2)(iv) through (xiii), respectively.

E. Redesignate newly redesignated paragraphs (i)(2)(xi)(H) and (I) as paragraphs (i)(2)(xi)(I) and (J), respectively, and further redesignate paragraphs (i)(2)(xi)(J)(*1*) through (*5*) as paragraphs (i)(2)(xi)(J)(*1*)(*i*) through (*v*), respectively.

F. Redesignate paragraphs (i)(3)(i) through (iii) as paragraphs (i)(3)(ii) through (iv), respectively.

G. Redesignate paragraph (j)(1)(iv)(C) as paragraph (j)(i)(iv)(B).

H. Add paragraphs (i)(2)(iii), (i)(2)(xi)(H), (i)(2)(xi)(J)(*1*) introductory text, (i)(2)(xi)(J)(*2*), and (i)(3)(i).

I. Revise paragraphs (i)(1)(i)(A), (i)(1)(iii)(A) introductory text, (i)(2)(i)(B), (j)(1)(iii)(B) introductory text, (j)(1)(iv)(A), (j)(2)(ii) introductory text, and (j)(2)(ii)(A) through (C).

J. Revise newly redesignated paragraphs (i)(1)(iv), (i)(1)(vi)(B), (i)(2)(xi)(G) first sentence, (i)(2)(xi)(J) introductory text, (i)(2)(xi)(J)(*1*)(*v*), and (i)(3)(ii) introductory text.

The revisions and additions read as follows:

§ 679.50 Groundfish Observer Program.

* * * * *

(i) * * *

(1)* * *

(i) * * *

(A) The Regional Administrator may issue a permit authorizing a person's participation as an observer provider. Persons seeking to provide observer services under this section must obtain an observer provider permit from NMFS.

* * * * *

(iii) * * *

(A) The Regional Administrator will establish an observer provider permit application review board, comprised of NMFS staff, to review and evaluate an application submitted under paragraph (i)(1) of this section. The review board will evaluate the completeness of the application, the application's consistency with needs and objectives of the observer program, or other relevant factors, and the following criteria for each owner, or owners, board members, and officers if a corporation:

* * * * *

(iv) *Agency determination on an application.* NMFS will send a written determination to the applicant. If an application is approved, NMFS will issue an observer provider permit to the applicant. If an application is denied, the reason for denial will be explained in the written determination.

* * * * *

(vi) * * *

(B) The Regional Administrator will provide a written initial administrative determination (IAD) to an observer provider if NMFS' deployment records indicate that the permit has expired. An observer provider who receives an IAD of permit expiration may appeal under § 679.43. A permit holder who appeals the IAD will be issued an extension of the expiration date of the permit until after the final resolution of that appeal.

* * * * *

(2) * * *

(i) * * *

(B) Prior to hiring an observer candidate, the observer provider must provide to the candidate copies of NMFS-provided pamphlets and other literature describing observer duties.

* * * * *

(iii) *Observer conduct.* (A) An observer provider must develop and maintain a policy addressing observer conduct and behavior for their employees that serve as observers. The policy shall address the following behavior and conduct regarding:

(*1*) Observer use of alcohol;

(*2*) Observer use, possession, or distribution of illegal drugs and;

(*3*) Sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(B) An observer provider shall provide a copy of its conduct and behavior policy by February 1 of each year, to:

(*1*) Observers, observer candidates and;

(*2*) The Observer Program Office.

* * * * *

(xi) * * *

(G) *Observer provider contracts.* Observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under paragraphs (c) and (d) of this section, by February 1 of each year.

* * *

* * * * *

(H) *Observer provider invoices.* Beginning in 2010 and in every third calendar year thereafter (e.g., 2013, 2016, 2019), certified observer providers must submit to the Observer Program Office copies of all invoices for observer coverage required or provided pursuant to paragraphs (c) and (d) of this section.

(*1*) Copies of invoices must be received by the Observer Program Office within 45 days of the date on the invoice and must include all reconciled and final charges.

(*2*) Invoices must contain the following information:

(*i*) Name of each individual catcher/processor, catcher vessel, mothership, stationary floating processor, or shoreside processing plant to which the invoice applies;

(*ii*) Dates of service for each observer on each catcher/processor, catcher

vessel, mothership, stationary floating processor, or shoreside processing plant. Dates billed that are not observer coverage days shall be identified on the invoice;

(*iii*) Rate charged in dollars per day (daily rate) for observer services;

(*iv*) Total charge for observer services (number of days multiplied by daily rate);

(*v*) Amount charged for air transportation; and

(*vi*) Amount charged by the provider for any other observer expenses, including but not limited to: ground transportation, excess baggage, and lodging. Charges for these costs must be separated and identified.

* * * * *

(J) *Other reports.* Reports of the following must be submitted in writing to the Observer Program Office by the observer provider via fax or email:

(*1*) Within 24 hours after the observer provider becomes aware of the following information:

* * * * *

(*v*) Any information, allegations or reports regarding observer conflict of interest or failure to abide by the standards of behavior described at paragraph (j)(2)(i) or (j)(2)(ii) of this section, or;

(*2*) Within 72 hours after the observer provider determines that an observer violated the observer provider's conduct and behavior policy described at paragraph (i)(2)(iii)(A) of this section; these reports shall include the underlying facts and circumstances of the violation.

* * * * *

(3) * * *

(i) Are authorized to provide observer services under an FMP for the waters off the coast of Alaska as required in this part, or scientific data collector and observer services to support NMFS-approved scientific research activities, exempted educational activities, or exempted or experimental fishing as defined in § 600.10 of this chapter.

(ii) Must not have a direct financial interest, other than the provision of observer or scientific data collector services, in a North Pacific fishery managed under an FMP for the waters off the coast of Alaska, including, but not limited to:

* * * * *

(j) * * *

(1) * * *

(iii) * * *

(B) *New observers.* NMFS may certify individuals who, in addition to any other relevant considerations:

* * * * *

(iv) * * *

(A) *Denial of a certification.* The NMFS observer certification official will issue a written determination denying observer certification if the candidate fails to successfully complete training, or does not meet the qualifications for certification for any other relevant reason.

* * * * *

(2) * * *

(ii) *Standards of Behavior.* Observers must:

(A) Perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office;

(B) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment and;

(C) Not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, an authorized officer, or NMFS.

* * * * *

§ 679.50 [Amended]

4. At each of the locations shown in the Location column, remove the phrase indicated in the ''Remove'' column and replace it with the phrase indicated in the ''Add'' column for the number of times indicated in the ''Frequency'' column.

Location at § 679.50	Remove	Add	Frequency
Newly redesignated (i)(2)(i)(C)(*3*)	in paragraph (i)(2)(x)(C) of this	in paragraph (i)(2)(xi)(C) of this	1
(i)(2)(ii)(A)	under paragraph (i)(2)(x)(E) of this	under paragraph (i)(2)(xi)(E) of this	1
Newly redesignated (i)(2)(iv)(B)	in paragraph (i)(2)(x)(C) of this	in paragraph (i)(2)(xi)(C) of this	1
Newly redesignated (i)(2)(vii)(B)	in paragraphs (i)(2)(vi)(C) and (i)(2)(vi)(D) of this	in paragraphs (i)(2)(vii)(C) and (i)(2)(vii)(D) of this	1
Newly redesignated (i)(2)(xi)(C)	paragraph (i)(2)(i)(B)(*1*) of	paragraph (i)(2)(i)(B) of	1
(j)(1)(iii)(B)(*2*)(*i*)	at paragraphs (i)(2)(x)(A)(*1*)(*iii*) and	at paragraphs (i)(2)(xi)(A)(*1*)(*iii*) and	1
(j)(1)(iii)(B)(*2*)(*ii*)	at paragraph (i)(2)(x)(C)	at paragraph (i)(2)(xi)(C)	1
(j)(1)(iii)(B)(*3*)	and (i)(2)(x)(C)	and (i)(2)(xi)(C)	1
(j)(1)(iii)(B)(*4*)(*ii*)	the candidate failed the training; whether	the candidate failed the training and whether	1
(j)(1)(iii)(B)(*4*)(*ii*)	in the form of an IAD denying	in the form of a written determination denying	1
(j)(3)(iii)	will issue a written IAD to the observer	will issue a written initial administrative determination (IAD) to the observer	1

[FR Doc. E9–23606 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 74, No. 188

Wednesday, September 30, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AFRICAN DEVELOPMENT FOUNDATION

Meeting: African Development Foundation, Board of Directors Meeting

Time: Tuesday, October 13, 2009, 9 a.m. to 12 p.m.

Place: African Development Foundation, Conference Room, 1400 I Street, NW., Suite 1000, Washington, DC 20005.

Date: Tuesday, October 13, 2009.

Status:

1. Open session, Tuesday, October 13, 2009, 9 a.m. to 11 a.m.; and
2. Closed session, Tuesday, October 13, 2009, 11 a.m. to 12 p.m.

Due to security requirements and limited seating, all individuals wishing to attend the open session of the meeting must notify Michele M. Rivard at (202) 673–3916 or *mrivard@usadf.gov* of your request to attend by 5 p.m. on Thursday, October 8, 2009.

Lloyd O. Pierson,

President.

[FR Doc. E9–23526 Filed 9–29–09; 8:45 am]

BILLING CODE 6117–01–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Thursday, October 8, 2009; 5:15 p.m. EDT.

PLACE: Via Teleconference. Public Dial in—1–800–597–7623. Conference ID # 32714747.

Meeting Agenda

This meeting is open to the public.

I. Approval of Agenda.

II. Management and Operations.

- Submission of FY 2011 Budget Estimate to the Office of Management and Budget.

III. Program Planning.

- Approval of Letter to Attorney General Holder re: ACORN.
- National Conference Subcommittee Issues.
- Motion to Appoint Additional Member to the Subcommittee.
- Motion to Delegate to the Subcommittee the Authority to Set the National Conference Date.

IV. Adjourn.

CONTACT PERSON FOR FURTHER INFORMATION: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8582. TDD: (202) 376–8116.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Pamela Dunston at least seven days prior to the meeting at 202–376–8105. TDD: (202) 376–8116.

Dated: September 28, 2009.

David Blackwood,

General Counsel.

[FR Doc. E9–23713 Filed 9–28–09; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units (Building Permits Survey)

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before November 30, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Erica Filipek, U.S. Census Bureau, MCD, CENHQ Room 7K181, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–5161 (or via the Internet at *Erica.Mary.Filipek@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request a three year extension of a currently approved collection of the Form C–404, Building Permits Survey. The Census Bureau produces statistics used to monitor activity in the large and dynamic construction industry. Given the importance of this industry, several of the statistical series are key economic indicators. Two such series are (a) Housing Units Authorized by Building Permits and (b) Housing Starts. Both are based on data from samples of permit-issuing places. These statistics help State and local governments and the Federal Government, as well as private industry, to analyze this important sector of the economy.

The Census Bureau uses Form C–404 to collect data to provide estimates of the number and valuation of new residential housing units authorized by building permits. The current form is titled ''Report of New Privately-Owned Residential Building or Zoning Permits Issued''. We plan to change the title to ''Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units'' to clarify the data being requested. We use the data, a component of the index of leading economic indicators, to estimate the number of housing units started, completed, and sold, if single-family, and to select samples for the Census Bureau's demographic surveys. The Census Bureau also uses the detailed geographic data collected from State and local officials on new residential construction authorized by building permits in the development of annual population estimates which are used by government agencies to allocate funding and other resources to local areas. Policymakers, planners, businessmen/

women, and others also use the detailed geographic data to monitor growth and plan for local services and to develop production and marketing plans. The Building Permits Survey is the only source of statistics on residential construction for States and smaller geographic areas. Building permits are public records so the information is not subject to disclosure restrictions.

II. Method of Collection

The Census Bureau collects this information by mail; respondents return forms by mail or fax. Some respondents send electronic files or printouts of permit information in lieu of completing the form. We are currently developing a system to provide an option for Web-based reporting which is scheduled to be operational in 2010.

The survey universe is comprised of approximately 19,375 local governments that issue building permits. Monthly, we collect this information by mail for about 8,200 permit-issuing jurisdictions and via electronic files or printouts of permits for about 625 jurisdictions. Annually, we collect this information by mail for the remaining 10,550 jurisdictions.

III. Data

OMB Number: 0607–0094.
Form Number: C–404.
Type of Review: Regular submission.
Affected Public: State and Local Governments.
Estimated Number of Respondents: 19,375.
Estimated Time per Response: 8 minutes for monthly respondents who report by mailing or faxing the form, 3 minutes for monthly respondents who send electronic files or printouts, and 23 minutes for annual respondents who report by mailing or faxing the form.
Estimated Total Annual Burden Hours: 17,539.
Estimated Total Annual Cost: $420,745.
Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 24, 2009.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–23530 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–09–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Annual Survey of Manufactures Management and Organizational Practices Module

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before November 30, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mendel D. Gayle, Census Bureau, 4600 Silver Hill Rd., Rm 7K055, Washington, DC 20233, (301) 763–4587 or via the Internet at *mendel.d.gayle@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to conduct the Annual Survey of Manufactures (ASM) Management and Organizational Practices Module for survey year 2010 with subsequent data collection activities for this survey pending funding. The Census Bureau has conducted the Annual Survey of Manufactures (ASM) since 1949 to provide key measures of manufacturing activity during intercensal periods. In census years ending in ''2'' and ''7'', we mail and collect the ASM as part of the Economic Census covering the Manufacturing Sector. This survey is an integral part of the Government's statistical program. The ASM furnishes up-to-date estimates of employment and payroll, hours and wages of production workers, value added by manufacture, cost of materials, value of shipments by product class, inventories, and expenditures for both plant and equipment and structures. This survey module would utilize the ASM survey panel collecting information on management and organizational practices at the establishment level. The data obtained from the module will allow us to estimate a firm's stock of management and organizational assets, specifically the use of decentralized decision rights and greater investments in human capital. The results will provide information on investments in organizational practices thus gain a better understanding of the benefits from these investments when measured in terms of firm productivity or firm market value.

A manufacturing sector establishment based survey on management and organizational practices would provide information on the dimensions of organizational capital for this sector not currently available. This ASM clearance request will be for the year 2010.

II. Method of Collection

The ASM Management and Organizational Practices Module will be mailed separately from the ASM and utilize mail out/mail back survey forms. The mail portion will be comprised of a probability sample of approximately 50,000 manufacturing establishments from a frame of approximately 225,000 establishments. These 225,000 establishments were all manufacturing establishments of multiunit companies (companies with operations at more than one location) and all single-location manufacturing companies that were mailed in the 2007 Census of Manufacturing.

III. Data

OMB Control Number: None.
Form Number: MA–10002.
Type of Review: Regular submission.
Affected Public: Business or Other for Profit, Non-profit Institutions, Small Businesses or Organizations, and State or Local Governments.

Estimated Number of Respondents: 50,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 25,000.

Estimated Total Annual Cost: The estimated cost to the respondents is $643,000.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, sections 182, 224, and 225.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 24, 2009.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–23531 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–09–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Government Employment Forms

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration written comments must be submitted on or before November 30, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ellen Thompson, Chief, Employment Branch, Governments Division, U.S. Census Bureau, Washington, DC 20233–6800 (301–763–1531) (or via the Internet at *ellen.ann.thompson@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance for the forms necessary to conduct the public employment program which consists of an annual collection of information and a quinquennial collection in a census environment in years ending in ''2'' or ''7''. During the upcoming three years, we intend to conduct the 2010 and 2011 Annual Survey of Government Employment and the 2012 Census of Governments—Employment phase.

Under Title 13, section 161 & 182, of the United States Code, the Secretary of Commerce is authorized to conduct the public employment program, which collects and disseminates data by function for full-time and part-time employees, payroll, and number of part-time hours worked. The number and content of the data items collected are the same in the annual and census cycles.

The burden hours we will request are based on the expected 2010 annual survey mail out of 16,956 forms.

The State and local government statistics produced cover national, State, and local aggregates on various functions with comparative detail for individual governments for the pay period that includes March 12. The public employment program provides the only comprehensive count of employees and payrolls in State and local governments. Government employees constitute approximately one-sixth of the entire U.S. workforce and their salaries are a major source of personal income.

The Census Bureau provides this employment data to the Bureau of Economic Analysis for constructing the functional payrolls in the public sector Gross Domestic Product, payroll being the single largest component of current operations. Other government users include the Bureau of Labor Statistics, as a benchmark for its monthly employment programs, and the Department of Housing and Urban Development, to establish payroll guidelines for local public housing authorities.

The public employment program has increasingly been used as the base for reimbursable programs of other Federal agencies such as: (1) The government portion of the Medical Expenditure Panel Survey commissioned by the Agency for Healthcare Research and Quality to provide timely, comprehensive information about health care use and costs in the United States, and (2) The Bureau of Justice Statistics (BJS) survey Criminal Justice Expenditure and Employment Survey which provides criminal justice expenditure and employment data on spending and personnel levels.

Statistics are produced as data files in both electronic and printed formats. The program has made possible the dissemination of comprehensive and comparable governmental statistics since 1940.

The many users of the public employment program data include Federal agencies, State and local governments and related organizations, public interest groups, and many business, market, and private research organizations.

II. Method of Collection

Approximately 16,956 State agencies, county governments, consolidated city-county governments, independent cities, towns, townships, special district governments, and public school systems designated for the annual survey will be sent an appropriate form or the data will be collected through a data sharing arrangement between the Census Bureau and the State government.

We developed cooperative agreements with State and large local government officials to collect the data from their dependent agencies and report to us as one central respondent. These arrangements eliminate the need for a mail canvass of approximately 3,464 State agencies and 129 school systems. The agreements reduce burden by greatly reducing the number of people who have to look at a form and complete, and by pulling data from an already centralized source instead of from multiple sources. Currently we have central collection agreements with 45 states, four local school district governments, and ten local governments. We continue to work at expanding the conversion of paper

submissions into electronic formats, for both individual units and central collection units.

Since the 2003 annual collection cycle, all form types can be completed on the Internet. For the 2007 Census, 18,708 governments responded using our Web site. For the 2008 Annual survey, 6,589 or 31% of the governments sample responded using our Web site.

III. Data

OMB Number: 0607–0452.

Form Number: E–1, E–2, E–3, E–4, E–5, E–6, E–7, E–9.

Type of Review: Regular.

Affected Public: State governments, county governments, consolidated city-county governments, independent cities, towns, townships, special district governments, and public school systems.

Estimated Number of Respondents: 16,956.

Estimated Time per Response: The average for all forms is 49 minutes.

Estimated Total Annual Burden Hours: 13,973.

Estimated Total Annual Cost: $ 316,524.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 United States Code, section 161 & 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Gwelnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–23533 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR62

Endangered and Threatened Species; Recovery Plans

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Availability.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the adoption of an Endangered Species Act (ESA) recovery plan for the Middle Columbia River Steelhead (Oncorhynchus mykiss) Distinct Population Segment (DPS), which spawns and rears in tributaries to the Columbia River in central and eastern Washington and Oregon. The Plan includes four locally developed management unit plans that address tributary conditions, included as appendices to the Plan, as well as two ''modules'' developed by NMFS to address conditions affecting all steelhead populations in the Columbia River mainstem and estuary - the Hydro Module, based on the NMFS 2008 Biological Opinion on the Federal Columbia River Power System (FCRPS BiOP), and the Estuary Module (NMFS 2007). The Plan also incorporates Hatchery and Genetic Management Plans (HGMPs); site-specific actions in the FCRPS BiOp Reasonable and Prudent Alternative 39 for updating HGMPs, Artificial Production for Pacific Salmon (FCRPS BiOp, Appendix C of Supplemental Comprehensive Analysis, NMFS 2008); and fishery management planning through *U.S.* v. *Oregon* for mainstem fisheries, the Pacific Salmon Treaty and Pacific Fishery Management Council guidelines and constraints for marine fisheries, and Fisheries Management Evaluation Plans (FMEPs) and Tribal Resource Management Plans for tributary fisheries.

ADDRESSES: Additional information about the plan may be obtained by writing to Lynn Hatcher, National Marine Fisheries Service, 304 S. Water Street, Suite ı 201, Ellensburg, WA 98926, or by calling (509) 962–8911. Electronic copies of the Plan and a summary of and response to public comments on the Proposed (Draft) Recovery Plan are available online at *http://www.nwr.noaa.gov/Salmon-Recovery-Planning/Recovery-Domains/Interior-Columbia/Mid-Columbia/Mid-Col-Plan.cfm*. A CD ROM of these documents can be obtained by calling Sharon Houghton at 503–230–5418 or by emailing a request to *sharon.houghton@noaa.gov* with the subject line ''CD ROM Request for Final ESA Recovery Plan for Middle Columbia River Steelhead.

FOR FURTHER INFORMATION CONTACT: Lynn Hatcher, NMFS Middle Columbia Steelhead Salmon Recovery Coordinator, at 509–962–8911, or Elizabeth Gaar, NMFS Salmon Recovery Division, at 503–230–5434.

SUPPLEMENTARY INFORMATION:

Background

Recovery plans describe actions beneficial to the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). The ESA requires that recovery plans, to the extent practicable, incorporate: (1) objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for each listed species unless such a plan would not promote its recovery.

NMFS is responsible for developing and implementing ESA recovery plans for listed salmon and steelhead. In so doing, NMFS' goal is to restore endangered and threatened Pacific salmonids to the point that they are again self-sustaining members of their ecosystems and no longer need the protections of the ESA. Local support of recovery plans by those whose activities directly affect the listed species, and whose actions will be most affected by recovery efforts, is essential. NMFS therefore supports and participates in locally led collaborative efforts to develop recovery plans that involve local communities, state, tribal, and Federal entities, and other stakeholders.

NMFS recognizes that to achieve recovery of ESA listed salmon and steelhead in the Columbia River Basin, site-specific actions addressing all limiting factors and threats (habitat, hydropower, hatcheries, harvest) are necessary. In this recovery plan, the relative impacts of this full range of limiting factors and threats are identified and evaluated, although effective site-specific actions may be better developed or more feasible to implement in some sectors than in others. At this time, site-specific management actions are more fully developed for tributary habitat and

mainstem hydropower than for hatcheries and harvest. Given that habitat protection and restoration actions generally take some time to yield ecosystem responses and improvements in fish populations, it is important to implement actions with more immediate benefits, as well as those whose benefits will accrue in the future.

Hatchery and harvest actions developed in other management processes will be important for recovery. For hatcheries, site-specific actions are being developed pursuant to the 2008 FCRPS Biological Opinion, which requires updated Hatchery and Genetic Management Plans for all facilities that affect listed salmon and steelhead in the Columbia Basin. Mainstem fisheries in the Columbia River will be implemented consistent with the recently completed U.S v. Oregon Agreement, which extends through 2017. Tributary fisheries are subject to Fishery Management and Evaluation Plans and Tribal Resource Management Plans, many of which are now under review or scheduled for completion in the near future. Ocean fisheries are managed according to the Pacific Salmon Treaty and Pacific Fishery Management Council guidelines and constraints. Such plans have been and will be developed to be consistent with recovery plans, section 7(a)(2), and other ESA requirements. NMFS will continue to monitor these plans, using adaptive management, to assess implementation progress and consistency with recovery plans.

The Plan

This Plan is the product of a collaborative process initiated by NMFS with assistance from the Middle Columbia Recovery Forum, a group convened by NMFS to provide input on the development of the DPS recovery plan. Participants include representatives of the Oregon Department of Fish and Wildlife (ODFW), Washington Department of Fish and Wildlife (WDFW), the Yakama Nation, Confederated Tribes of the Warm Springs Indian Reservation, Confederated Tribes of the Umatilla Indian Reservation, Washington Governor's Salmon Recovery Office, Oregon Governor's Natural Resources Office, Snake River Salmon Recovery Board (SRSRB), Yakima Basin Fish and Wildlife Recovery Board (YBFWRB), U.S. Bureau of Reclamation (BOR), U.S. Fish and Wildlife Service (USFWS), U.S. Forest Service (USFS), U.S. Army Corps of Engineers (COE), U.S. Bureau of Land Management (BLM), Klickitat County, and NMFS Northwest Region. The goal was to produce a plan that meets ESA requirements for recovery plans as well as the State of Washington's recovery planning outline and guidance (*www.governor.wa.gov/gsro/*) and the State of Oregon's Native Fish Conservation Policy guidance (*http://ftp.dfw.state.or.us/fish/nfcp/nfcp.pdf*).

Recovery Domains and Technical Recovery Teams

For the purpose of recovery planning for the 19 ESA-listed species of Pacific salmon and steelhead in the Pacific Northwest, NMFS Northwest Region designated five geographically based ''recovery domains.'' The Middle Columbia steelhead DPS spawning range is in the Interior Columbia domain. For each domain, NMFS appointed a team of scientists, nominated for their geographic and species expertise, to provide a solid scientific foundation for recovery plans. The Interior Columbia Technical Recovery Team (ICTRT), which contributed to this Plan, included biologists from NMFS, states, tribes, and academic institutions.

All the TRTs used the same biological principles for developing their recommendations for ESU/DPS and population viability criteria. These principles are described in a NMFS technical memorandum, *Viable Salmonid Populations and the Recovery of Evolutionarily Significant Units* (McElhany *et al.*, 2000). Viable salmonid populations (VSP) are defined in terms of four parameters: abundance, productivity or growth rate, spatial structure, and diversity. A viable ESU/DPS is naturally self-sustaining, with a high probability of persistence over a 100–year time period.

Management Units

In each domain, NMFS worked with state, tribal, local, and other Federal entities to develop planning forums that build to the extent possible on ongoing, locally led recovery efforts. NMFS defined ''management units'' based on jurisdictional boundaries as well as areas where local planning efforts were underway. The Middle Columbia management units are the following: (1) Oregon; (2) Washington Gorge, which, in turn, is subdivided into three planning areas (White Salmon, Klickitat, and Rock Creek); (3) Yakima subbasin; and (4) Southeast Washington. A recovery plan was developed for each management unit; for the Washington Gorge management unit, however, there are three plans, one for each planning area.

The White Salmon plan for steelhead will also contribute to recovery for three other species, the Lower Columbia River Chinook, Lower Columbia River coho, and Columbia River chum, which historically spawned in the White Salmon River watershed. The Lower Columbia River ESA recovery plan is an ecosystem plan that addresses all listed species in the Lower Columbia subbasin; therefore, the White Salmon Plan for Middle Columbia steelhead is not being finalized now; it will become part of the Lower Columbia plan and will be finalized along with that plan in late 2010 or early 2011.

The management unit plans, Appendices A-E, are the work of local groups and county, state, Federal, and tribal entities within the Middle Columbia River region. The management unit plans are as follows:

(1) Oregon. *Conservation and Recovery Plan for Oregon Steelhead Populations in the Middle Columbia River Steelhead Distinct Population Segment* (Appendix A).

(2) Washington Gorge: *Recovery Plan for the Klickitat Population of the Middle Columbia River Steelhead* (Appendix B) and *Recovery Plan for the Rock Creek Population of the Middle Columbia River Steelhead* (Appendix C).

(3) Yakima Basin. *Yakima Steelhead Recovery Plan* (Appendix D).

(4) Southeast Washington. *The Snake River Salmon Recovery Plan for Southeast Washington* (Appendix E).

The two modules, Appendices F and G, address all species that use the Columbia River estuary (Estuary Module) and that are affected by the Federal Columbia River Power System (Hydro Module.)

The Draft Plan, including the four management unit plans, two modules, and two scientific reports that provide the scientific basis for the Plan (McClure et al, 2003; ICTRT 2007), was made available for public review as a Proposed Recovery Plan. A notice of availability soliciting public comments on the Proposed Recovery Plan was published in the **Federal Register** on September 24, 2008 (73 FR 55045). NMFS received 38 comment letters on the Proposed Recovery Plan. An itemized record of all comments is available on the NOAA website. NMFS summarized the public comments, prepared responses, and identified the public comments that prompted revisions to the Plan. The final Plan is now available on the NMFS website at *www.nwr.noaa.gov/Salmon Recovery Planning/Recovery Domains/Interior Columbia/Middle Columbia/Index.cfm.*

Public hearings were conducted at the following locations, dates, and times:

Goldendale, WA, November 18, 2008, at the Klickitat County PUD building, 6:30 - 8:30 pm.

Yakima, WA, November 19, 2008, at the Yakima Arboretum, 6:30 - 8:30 pm.

Walla Walla, WA, November 20, 2008, at the Walla Walla Community College, 6:30 - 8:30 pm.

John Day, OR, November 6, 2008, U.S. Forest Service Office, 6:30 - 8:30 p.m.

Redmond, OR, November 12, 2008, Juniper Golf Club, 6:30 - 8:30 p.m.

Hermiston, OR, November 24, 2008, Stafford Hansel Government Center, 6:30 - 8:30 p.m.

The Dalles, OR, December 2, 2008, Civic Center Auditorium ,6:30 -8:30 p.m.

Portland, OR, December 11, 2008, Metro Regional Government Council Chambers, 6:30 - 8:30 p.m.

CDs of the DPS plan and the MU plans were available at each public meeting and upon request from Sharon Houghton, at (503) 230–5418. Announcements of the public meetings were placed in the local newspapers.

NMFS revised the Plan based on the comments received, and this final version now constitutes the ESA Recovery Plan for Middle Columbia Steelhead.

NMFS intends this plan to assist Federal agencies in fulfilling their section 7(a)(1) obligations. NMFS also expects the Plan to guide NMFS and other Federal agencies in evaluating Federal actions under ESA section 7(a)(2) and other ESA decisions. For example, the Plan will provide greater biological context for evaluating the effects that a proposed action may have on a species. This context will be enhanced by using recovery plan information in ESA section 7 consultations, section 10 habitat conservation plans, and other ESA decisions. Such information includes viability criteria for the DPS, better understanding of and information on limiting factors and threats facing the DPS, better information on priority areas for addressing specific limiting factors, and better geographic context for where the DPS can tolerate varying levels of risk.

DPS Addressed and Planning Area

''Steelhead'' is the name commonly applied to the anadromous (migratory) form of the biological species *Oncorhynchus mykiss*. The common names of the non-anadromous, or resident, form are rainbow trout and redband trout. When NMFS originally listed the Middle Columbia River steelhead as threatened on March 25, 1999 (64 FR 14517), it was classified as an ''evolutionarily significant unit'' (ESU) of salmonids that included both the anadromous and resident forms. Recently, NMFS revised its species determinations for West Coast steelhead under the ESA, delineating anadromous, steelhead-only ''distinct population segments'' (DPS). NMFS listed the Middle Columbia River steelhead DPS as threatened on January 5, 2006 (71 FR 834). Rainbow trout and redband trout are under the jurisdiction of the states unless they are listed, when they come under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS). This recovery plan addresses steelhead and not rainbow trout, consistent with the 2006 ESA listing decision.

Middle Columbia River steelhead spawn and rear in tributaries to the Columbia River in the Columbia plateau of central and eastern Washington and Oregon. The DPS includes all naturally spawned populations of steelhead in drainages upstream of the Wind River, Washington, and the Hood River, Oregon, up to, and including, the Yakima River, Washington, excluding steelhead from the Snake River Basin (64 FR 14517; 71 FR 849). Most of these populations are summer run; however, the Middle Columbia River steelhead DPS also includes populations of inland winter steelhead in the Klickitat River, White Salmon River, Fifteenmile Creek, and possibly Rock Creek.

Four artificial propagation programs are considered part of the DPS: the Touchet River Endemic Summer Steelhead Program, the Yakima River Kelt Reconditioning Program, and the Umatilla River and Deschutes River steelhead hatchery programs.

The ICTRT (McClure *et al.*, 2003) identified 20 historical populations of Middle Columbia steelhead, based on genetic information, geography, life history traits, morphological traits, and population dynamics. Seventeen of these populations are extant, and three extirpated (White Salmon River, Crooked River, and Willow Creek). Reintroduction of native steelhead or natural recolonization is planned for blocked areas of the Upper Deschutes and Crooked Rivers and the White Salmon River, respectively.

The ICTRT stratified the Middle Columbia River steelhead populations into major population groups (MPGs) based on ecoregion characteristics, life history types, and other geographic and genetic considerations. It identified four MPGs: Cascades Eastern Slope Tributaries, Yakima River, John Day River, and Umatilla/Walla Walla.

The Plan's Recovery Goals and Recovery Criteria

To meet the ESA requirement for objective, measurable criteria for delisting, the Plan provides biological recovery (viability) criteria based on the ICTRT viability criteria for Middle Columbia steelhead, as well as ''threats'' criteria based on the listing factors defined in ESA section 4(a)(1).

Biological Viability Criteria

Biological viability criteria describe DPS characteristics associated with a low risk of extinction for the foreseeable future. These criteria are expressed in terms of the VSP parameters of abundance, productivity, spatial structure, and diversity (McElhany *et al.*, 2000; ICTRT, 2007a). The ICTRT calculated varying levels of risk of extinction and related the risk levels to their criteria. The Plan shows the minimum abundance and productivity thresholds required for the Middle Columbia steelhead populations to have a 95 percent probability of persistence for the next 100 years.

Since MPGs are geographically and genetically cohesive groups of populations, they are critical components of ESU or DPS spatial structure and diversity. NMFS' criterion for long-term DPS viability, based on the ICTRT recommendations, is that all extant MPGs and any extirpated MPGs critical for proper functioning of the ESU/DPS should be at low risk (ICTRT, 2007a). MPG viability depends on the abundance, productivity, spatial structure, and diversity associated with its component populations.

The risk levels of the populations within the DPS collectively determine MPG viability and, in turn, the likely persistence of the DPS. The ICTRT recommended that all MPGs in a DPS should be viable; however, it may not be necessary for all of the populations in each MPG to attain the lowest risk level. There may be more than one way for a DPS to meet the viability criteria. The ICTRT considered various combinations of viability status for individual populations that would meet the MPG viability criteria and result in overall DPS viability. These combinations of viability status are called recovery scenarios. Population-level status could range from ''highly viable,'' – a 99 percent probability of persistence over 100 years, to ''viable'' – 95 percent probability, to ''maintained'' or moderate risk – 75 percent probability of persistence over 100 years. However, because of the many uncertainties in predicting biological responses to recovery actions, the ICTRT cautioned

against prematurely closing off the options for any population (ICTRT, 2007a).

Threats Criteria

Listing factors (or threats) are those features that are evaluated under section 4(a)(1) when initial determinations are made whether to list species for protection under the ESA. They are as follows:

A. Present or threatened destruction, modification, or curtailment of [the species'] habitat or range;

B. Over-utilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. Inadequacy of existing regulatory mechanisms; or

E. Other natural or human-made factors affecting [the species'] continued existence.

At the time of a delisting decision for Middle Columbia steelhead, NMFS will examine whether the section 4(a)(1) listing factors have been addressed. To assist in this examination, NMFS will use the listing factors (or threats) criteria described in Section 3.3 of the Plan, in addition to evaluation of biological recovery criteria and other relevant data and policy considerations. The threats should be addressed to the point that delisting is not likely to result in their re-emergence. It is possible that currently perceived threats could become insignificant in the future due to changes in the natural environment or changes in the way threats affect the entire life cycle of salmon. It is also possible that new threats will emerge. Consequently, the relative priority of threats could change over time. During status reviews, NMFS will evaluate and review the listing factor criteria (threats) as they apply at that time.

Current DPS Status

Applying the Plan's biological recovery (viability) criteria, the ICTRT rated the majority of natural Middle Columbia steelhead populations as presently at moderate risk for abundance and productivity, but low to moderate risk for spatial structure and diversity. Currently, one population is ''highly viable'' (North Fork John Day) and two populations are viable (Deschutes Eastside and Fifteenmile); eleven are at moderate risk, with good prospects for improving. Three populations are at high risk (Deschutes Westside, Naches, and Upper Yakima), and these are key to DPS viability. As a minimum, for the Cascades Eastern Slope Tributaries MPG and the Yakima River MPG to meet viability criteria, the Deschutes Westside population and one of the two large Yakima populations (Naches or Upper Yakima) should reach viable status, with the other large Yakima population at no more than moderate risk.

None of the MPGs meets the low risk criteria. Thus, the Middle Columbia steelhead DPS does not currently meet viability criteria, based on the determination that the four component MPGs are not at low risk.

Limiting Factors and Threats

Based on information from the ICTRT, the four management unit plans, the 2008 FCRPS BiOP and its Supplemental Comprehensive Analysis, and the Estuary and Hydro modules, the major factors limiting the viability of Middle Columbia steelhead populations are degraded tributary habitat, impaired mainstem and tributary fish passage, hatchery-related effects, particularly those of out-of- DPS hatchery strays, and predation/competition/disease. The DPS plan and management unit plans contain detailed descriptions of tributary habitat, hatchery, and harvest limiting factors and threats, while the modules provide detailed examination of conditions in mainstem Columbia River and estuary.

Recovery Strategy

NMFS' overall goal for DPS viability, as formulated by the ICTRT and described in Chapter 3 of this plan, is to have all four extant MPGs at viable (low risk) status, with representation of all the major life history strategies present historically, and with the abundance, productivity, spatial structure and diversity attributes required for long-term persistence.

The ICTRT's current status assessment for the Middle Columbia steelhead DPS and the gaps analysis show that for this DPS, the outlook is optimistic. One population, North Fork John Day, is currently at very low risk or ''highly viable.'' Two populations are currently viable (Deschutes Eastside, Fifteenmile); eleven are at moderate risk, with good prospects for improving. However, the three large populations at high risk (Deschutes Westside, Naches, and Upper Yakima), are important to DPS viability; as a minimum, Deschutes Westside and one of the two large Yakima populations should also reach viable status, with the other large Yakima population at least reaching ''maintained'' status. These present significant, though not insuperable, challenges.

If, as we believe, the decline of the Middle Columbia River steelhead DPS is caused by widespread habitat degradation, impaired mainstem and tributary passage, hatchery effects, and predation/ competition/ disease, then actions taken to improve, change, mitigate, reduce those factors will result in increased survival and improvements in abundance, survival, spatial structure, and diversity. Because of the steelhead's complex life cycle and the many changes that have taken place in its environment, the factors limiting its survival must be addressed in concert, and in an integrated way. The work needs to occur at a regional level, in terms of commitment to strategies, programmatic actions, and funding, and at the local level, population by population and site by site. Significant investments of research, planning, regional coordination, actions, and political will are already underway. The intent for the DPS plan is to build upon, help to coordinate, and add to the ongoing efforts.

The recovery strategy for the Middle Columbia steelhead DPS addresses both the basin-wide issues that affect all populations, such as conditions in the migratory corridor, and the subbasin and side-specific issues that are the focus of the management unit plans. The DPS Plan describes the overall strategy, summarizes the MPG-level strategies, and refers to Appendices A-G for more site-specific, population level actions.

The DPS-level recovery strategy for the Middle Columbia steelhead is made up of the following elements:

- Affirm and address the 2006 listing decision recommendations to address the limiting factors for the DPS and populations.
- Protect and restore tributary habitat and Columbia River mainstem habitat, through strategies and actions at both the Basin/programmatic level and at the local level as detailed in the management unit plans.
- Address impaired fish passage through strategies and actions in the mainstem Columbia River, as detailed in the 2008 FCRPS Biological Opinion (as summarized in the Hydro Module) and in the tributaries as detailed in the management unit plans
- Implement hatchery reforms at the population and site specific level through Hatchery and Genetic Management Plans (HGMPs) as required by the 2008 FCRPS Biological Opinion and as described in Appendix C of the Supplemental Comprehensive Analysis, (NMFS 2008a).
- Address ecosystem imbalances in predation, competition, and disease through the strategies and actions in the management unit plans, estuary module and FCRPS Biop.

• Maintain current low harvest levels, through fishery management planning for mainstem fisheries through the U.S. v. Oregon 10–year agreement, updated Fisheries Management Evaluation Plans and Tribal Resource Management Plans for tributary fisheries, and Pacific Salmon Treaty and Pacific Fishery Management Council processes.

• Protect and restore the estuary and Columbia River plume as detailed in the Columbia River Estuary module.

• Respond to climate change threats with a strategy based on the principle of preserving biodiversity.

• Implement the Plan through effective coordination and governance.

• Research critical uncertainties, monitor and evaluate implementation and effectiveness and adjust course, as appropriate through adaptive management.

NMFS believes that if this strategy is implemented and the biological response is as expected, the Middle Columbia steelhead DPS could achieve viable status within 25 to 50 years.

The approach for addressing the major categories of limiting factors is as follows:

Widespread Habitat Degradation Tributaries and Mainstem Columbia River

Actions to protect and improve habitat in the tributaries and Columbia mainstem are essential to achieving recovery objectives for the Middle Columbia steelhead DPS. Unlike some other salmonid species, steelhead, which are ''stream-type'' salmonids, use mainstem tributary, upper tributary, and side channel habitats for spawning, juvenile rearing, and overwintering. Steelhead populations are particularly susceptible to the effects of degraded freshwater habitat because most steelhead spend one or more years in freshwater before migrating. While improving survival in the mainstem Columbia River and estuary is also an important part of DPS-wide strategy, and will benefit all salmonid populations, protecting existing high quality or good quality tributary habitat and restoring degraded habitat will specifically benefit Middle Columbia steelhead populations in the spawning and rearing life stages. Improved spawning and rearing means that more fish will reproduce, more juveniles will survive to migrate, and consequently more adults will return, even if the other factors remain as they are today.

The actions for tributary habitat include the following:

• Implementation of locally developed management unit plans to address protection and restoration of tributary habitat.

• Implementation of Federal, state, and tribal programs, such as, for example, U.S. Forest Service and BLM best management practices for grazing, mining, and recreation, and EPA and tribal programs to implement TMDLs and cold water refugia, in a manner that addresses primary habitat strategies and actions at the local level.

Relatively little information is available concerning Middle Columbia River steelhead use of mainstem Columbia River habitat above Bonneville, aside from passage through the dams. NMFS believes it is important to assess nearshore habitat and cold water refugia in the mainstem and to explore opportunities for, and potential benefits from, restoration and protection of these areas.

Impaired Fish Passage – Mainstem Columbia River

Passage for juvenile steelhead migrating to the ocean and adult steelhead returning to their natal streams is limited primarily by the four Federal dams on the Lower Columbia River mainstem – Bonneville, John Day, The Dalles, and McNary dams – which are part of the Federal Columbia River Power System (FCRPS). NMFS issued a final biological opinion on the effects of FCRPS operations on salmonids, including Middle Columbia River steelhead, and on the predicted results of current and planned improvements to the system that are intended to improve fish survival (NMFS 2008).

The plan for current mainstem hydro operations, as detailed in the 2008 FCRPS BiOp and summarized in the Hydro Module, and any further improvements for fish survival that may result from the ongoing FCRPS collaborative process, represent the hydropower recovery strategy for all listed salmonids that migrate through the mainstem Columbia River, including the Middle Columbia steelhead populations.

These improvements are expected to increase the in-river survival of Middle Columbia River juvenile steelhead by 0.3 percent, 5.1 percent, 8.2 percent, and 10.2 percent, depending on the number of dams they must pass. The survival of steelhead adults through the four dams is thought to be relatively high at the present time (about 98.5 percent per project from Bonneville to McNary), and is expected to be maintained or improved.

Dissenting View of State of Oregon Regarding Mainstem Operations

At the time this recovery plan is being finalized, August 2009, it is the position of the State of Oregon that additional or alternative actions should be taken in mainstem operations of the FCRPS for ESA-listed salmon and steelhead. Some additional or alternative actions recommended by Oregon, while considered, were not included in NOAA's FCRPS Biological Opinion. At this time, Oregon is a plaintiff in litigation against various federal agencies, including NOAA, challenging the adequacy of the measures contained in the current FCRPS Biological Opinion. NOAA is not in agreement with Oregon regarding the need for or efficacy of Oregon's additional or alternative actions.

Hatchery-Related Effects

The hatchery programs in the Middle Columbia River are managed under the Mitchell Act and the *U.S.* v. *Oregon* process, involving the fisheries co-managers and regulated by NMFS. NMFS is working with the funding agencies and hatchery operators to update and complete Hatchery and Genetic Management Plans (HGMPs) for every hatchery program in the Middle Columbia region as a means of organizing hatchery review and reform. New HGMPs are also being developed for the Interior Columbia River hatchery programs that are responsible for adult out-of-DPS hatchery fish that stray into the MCR steelhead area, causing a priority limiting factor in the John Day and Deschutes populations. The HGMPs are the basis for NMFS' biological opinions on hatchery programs under sections 7 and 10 and the 4(d) rule, which relate to incidental and direct take of listed species. The HGMPs describe each hatchery's operations and the actions taken to support recovery and minimize ecological or genetic impacts, such as straying and other forms of competition with naturally produced fish.

Artificial Propagation for Pacific Salmon, Appendix C of the 2008 FCRPS Biological Opinion (NMFS 2008), is a review of key factors for assessing the benefits and risks of hatchery programs relative to the conservation of Pacific salmon and to U.S. treaty responsibilities and sustainable fisheries mandates. The paper recommends strategies and practices to support salmon and steelhead conservation. The new FCRPS Biological Opinion (NMFS 2008) requires the hatchery operators and the Action Agencies to submit to NMFS updated HGMPs describing site-

specific applications of the ''best management practices'' for the hatchery programs as described in Appendices C and D of the Supplemental Comprehensive Analysis (SCA) of the Biological Opinion for those mitigation hatchery programs funded by the FCRPS Action Agencies.

Evaluating the factors that influence interactions between hatchery fish and naturally produced fish under varying freshwater conditions and ocean conditions is an important area of future research and is identified as a critical uncertainty in the DPS plan.

Predation, Competition, and Disease

The Plan addresses major avian, marine mammal and piscivorous fish predation issues in the mainstem Columbia River and tributaries and recommends immediate actions as well as research and monitoring to track trends in predator populations, understand their impacts on steelhead, and develop appropriate management techniques to reduce predation. Competition of hatchery fish with naturally produced fish, for food, spawning areas, or other habitat resources, can be an issue at any life stage. The Plan recommends actions, research and monitoring in areas where competition may be a problem, particularly in the Klickitat, John Day, and Deschutes populations. Disease in salmonids is caused by multiple factors and probably cannot be directly addressed by recovery actions except in specific instances of known causal factors. It is more likely that nearly all of the recommended recovery actions that improve spawning, rearing, and passage conditions for steelhead and increase the survival, abundance, and productivity of naturally produced fish will result in decreasing incidence of disease.

Following are summaries of the MPG-level recovery strategies for each MPG.

Cascades Eastern Slope Tributaries MPG

Present Status:

Viable - Fifteenmile Creek and Deschutes Eastside

Moderate risk - Klickitat (a provisional rating, based on insufficient abundance and productivity data and an unknown degree of diversity risk from hatchery influence)

High risk- Rock Creek (provisional, because of lack of data) and Deschutes Westside Functionally extirpated - White Salmon

Extirpated - Crooked River

Recovery Scenario: For the Eastern Cascades Slope Tributaries MPG to meet viability criteria based on the currently extant populations, the Klickitat, Fifteenmile, and both the Deschutes Eastside and Westside populations should reach viable status, with one highly viable. The Rock Creek population should reach ''maintained'' status (moderate risk -- 25 percent or less risk level). MPG viability could be further bolstered if reintroduction of steelhead into the Upper Deschutes and Crooked Rivers succeeds and if the White Salmon population is successfully reintroduced to its historical habitat.

Primary Limiting Factors and Threats:

- Degraded tributary habitat
- Mainstem passage
- Hatchery-related effects - evidence of hatchery fish from non-native broodstock straying and spawning in the Deschutes Basin
- Blocked migration to historically accessible habitat
- Predation, competition, disease - in mainstem and estuary; possibly also in Deschutes Westside as competition with resident rainbow trout.

Key Actions Proposed:

- Protect, improve, and increase freshwater habitat for steelhead production. Improvements to freshwater habitat should be targeted to address specific limiting factors in specific areas as described in the Oregon Recovery Plan and the Washington Gorge plans.
- Improve survival in mainstem and estuary through actions detailed in NMFS Estuary Module (NMFS 2007) and FCRPS Biological Opinion (NMFS 2008).
- Reduce straying of out-of-DPS hatchery fish onto natural spawning grounds within the Deschutes subbasin.
- Restore historical passage to Deschutes Westside tributaries to the Deschutes and Crooked Rivers above Pelton Round Butte dam complex and the White Salmon River above Condit Dam.
- Improve hatchery management to minimize impacts from hatchery releases on naturally produced steelhead within the Deschutes West and East and Klickitat subbbasins.
- Coordinate between scientists, planners, and implementers of recovery actions, including priority research, monitoring and evaluation, on both sides of the river for sequencing of recovery actions and monitoring for adaptive management.
- Fill data gaps for better assessment of Klickitat and Rock Creek steelhead populations.

John Day River MPG

Present Status:

Highly viable - North Fork John Day
Moderate risk - John Day Upper Mainstem, John Day Lower Mainstem, Middle Fork John Day, South Fork John Day

Recovery Scenario: For the John Day River MPG to meet viability criteria, the Lower Mainstem John Day River, North Fork John Day River, and either the Middle Fork John Day River or Upper Mainstem John Day River populations should achieve viable status, with one highly viable.

Main Limiting Factors and Threats:

- Degraded tributary habitat
- Mainstem passage
- Hatchery-related effects
- Predation/ competition/disease in mainstem and estuary

Key Actions Proposed:

- Protect and improve freshwater habitat conditions and connectivity for steelhead production. Improvements to freshwater habitat should be targeted to address specific factors in specific areas as described in the Oregon Recovery Plan.
- Improve survival in mainstem and estuary through actions detailed in NMFS Estuary Module (NMFS 2007) and FCRPS Biological Opinion (NMFS 2008).
- Reduce straying from out-of-DPS hatchery fish onto natural spawning grounds within the John Day subbasin by improving hatchery management strategies in Interior Columbia River hatcheries.

Yakima River MPG

Present Status:

Moderate risk - Satus Creek, Toppenish Creek
High risk - Naches River, Upper Yakima River

Recovery Scenario: For the Yakima River MPG to meet viability criteria, two populations should be rated as viable, including at least one of the two classified as Large the Naches River and the Upper Yakima River and the other Large population should meet at least the ''maintained'' or moderate risk criteria (greater than 75 percent probability of persistence). The remaining two populations should, at a minimum, meet the maintained criteria.

Main Limiting Factors and Threats:

- Tributary habitat: Altered hydrology; degraded habitat, loss of habitat; impaired fish passage; reduced outmigrant survival in Yakima

mainstem, due to the influence of major irrigation system development.

• Mainstem passage (these fish must pass four dams)

Key Actions Proposed:

• Protect and enhance habitat in key tributary watersheds in the Yakima Basin.

• Restore passage to blocked areas in the Naches and Upper Yakima population areas.

• Improve flow conditions for Middle Columbia steelhead by altering irrigation delivery and storage operations in the Yakima Basin and use managed high flows to maintain floodplain habitat.

• Improve channel and floodplain function and reduce predation through the mainstem Yakima and Naches Rivers.

• Improve survival in the mainstem Columbia and its estuary through actions detailed in the NMFS Estuary Module (NMFS 2007) and FCRPS Biological Opinion (NMFS 2008) as summarized in the Hydro Module.

Umatilla/Walla Walla MPG

Present Status:

Moderate risk - Umatilla, Walla Walla
High risk - Touchet (a provisional rating because of insufficient data)
Recovery Scenario: For the Umatilla/Walla Walla MPG to meet viability criteria, two populations sFhould be viable, and one should be highly viable. The Umatilla River is the only large population, and therefore needs to be viable. Either the Walla Walla River or Touchet River population also needs to be viable

Main Limiting Factors and Threats:

• Mainstem passage (Touchet and Walla Walla populations pass four major dams: the Umatilla population passes three.)
• Tributary habitat
• Hatchery-related effects
• Predation/competition/disease

Key Actions Proposed:

• Protect and improve freshwater habitat conditions and access for steelhead production. Improvements to freshwater habitat should be targeted to address specific factors in specific areas as described in the Southeast Washington Plan and the Oregon Recovery Plan.

• Reduce straying from out-of-DPS hatchery fish onto natural spawning grounds within the Umatilla/Walla Walla subbasins.

• Improve survival in mainstem and estuary through actions detailed in NMFS Estuary Module (NMFS 2007) and FCRPS Biological Opinion (NMFS 2008) as summarized in the Hydro Module.

• Coordinate between planners, scientists, and those implementing recovery actions in Washington and Oregon for sequencing, monitoring, and adaptive management

Site-specific Management Actions

The proposed site-specific management actions at the population level for the tributaries are described in detail in Appendices A through E of the Plan. Proposed site-specific actions for the mainstem Columbia River and estuary are described in detail in the FCRPS Biological Opinion (NMFS 2008), the Hydro Module (Appendix F), and the Estuary Module (NMFS 2007) (Appendix G), and Artificial Propagation for Pacific Salmon, Appendix C of the Supplemental Comprehensive Analysis of the FCRPS Biological Opinion (NMFS 2008).

Time Required and Cost Estimates

There are unique challenges to estimating time and cost for salmon and steelhead recovery, given the complex relationship of these fish to the environment and to human activities on land. NMFS estimates that recovery of the Middle Columbia steelhead DPS, like recovery for most of the ESA-listed Pacific Northwest salmon and steelhead, could take 50 to 100 years, although the optimistic view is that it could be 25 to 50 years. The management unit plans (Appendices A through E) contain extensive lists of actions to recover the Middle Columbia steelhead DPS populations. These projects were developed using the most up-to-date assessment of Middle Columbia steelhead recovery needs. The management unit plans focus, for the most part, on actions within the next 5 to 15 years. There are many uncertainties involved in predicting the course of recovery and in estimating total costs. Such uncertainties include biological and ecosystem responses to recovery actions as well as long-term and future funding.

Cost estimates for recovery projects were provided by the management unit entities where available information was sufficient to do so, using the methods described in each management unit plan. All applied guidance provided by NMFS and used similar cost calculation methodologies. However, the approaches vary to some degree given the local and independent nature of the planning groups. There are differences in the timeframes for cost estimates, whether administrative costs were included or not, and whether research, monitoring, and evaluation costs were calculated.

No cost estimates are provided for (1) programs that are already in existence, which are listed as Not Applicable (N/A); or (2) actions that need costs to be developed, need unit costs, and/or need project scale estimates -- these are listed as To Be Determined (TBD). Each management unit will work with regional experts to identify costs, scale, or unit costs for actions that require more information during the public comment period. Individual management unit costs will be updated with this new information for the final steelhead DPS recovery plan.

The total estimated cost for the Middle Columbia steelhead DPS is approximately $235 million over the initial 5–year period, and approximately $996 million over 25 to 50 years for all DPS-wide recovery actions for which sufficient information exists upon which to base an estimate. This estimate includes expenditures by local, tribal, state, and Federal governments, private business, and individuals in implementing both capital projects and non-capital work. In most cases, administrative costs are embedded in the total management unit cost estimates. Preliminary research, monitoring and evaluation costs have, in some cases, been estimated at the management unit level; however, these costs are not included at this time, pending completion of research and monitoring plans and further development of each project.

Potential Effects of Proposed Recovery Actions

A quantitative analysis of the potential effects of all the proposed recovery actions on the abundance and productivity of Middle Columbia River steelhead was performed using two models, the Ecosystem Diagnosis and Treatment model and the All-H-Analyzer model. The analysis indicates, based on the suites of proposed actions in all the sectors, that all Middle Columbia River steelhead populations for which there are adequate data are expected to achieve 95 percent probability of persistence (less than 5 percent risk of extinction within 100 years) for abundance/productivity if the most intensive (major) restoration scenarios are implemented and the projected habitat changes are realized. Under minimum restoration scenarios, three populations (Deschutes Westside, Satus, and Upper Yakima) may not achieve less than 5 percent risk for abundance/productivity. However, even under poor ocean conditions and

minimum restoration actions, the abundance and productivity of these three populations are expected to increase considerably over the baseline.

Coordination/Governance

Coordination of actions and information-sharing among fisheries biologists, Tribes, local governments, citizen groups, and state and Federal agencies based in both Oregon and Washington is a key component of recovery for this DPS. Benefits of coordination include:

- Dealing with shared migration areas consistently
- Developing coherent MPG-level strategies where populations are in two states (Cascades Eastern Slope MPG; Umatilla/Walla Walla MPG), or the same population is in both states (Walla Walla population)
- Promoting consistent methods for setting recovery objectives, evaluating strategies, and monitoring progress across populations, MPGs, and the DPS

This coordination is under development. The recent creation of the Middle Columbia Recovery Forum, to be convened regularly by NMFS, is intended to facilitate such collaboration between scientists and recovery planners on both sides of the Columbia River. The Plan describes in more detail the proposed roles and responsibilities.

Research, Monitoring, and Adaptive Management

The Plan identifies the many knowledge gaps and uncertainties involved in designing recovery actions for Middle Columbia steelhead. Because the proposed recovery actions are based on hypotheses about the relationships between fish, limiting factors, human activities, and the environment, the Plan recommends research and monitoring to determine progress in recovery. Monitoring is the basis for adaptive management -- the process of adjusting management actions and/or directions based on new information. Research, monitoring, and adaptive management will be built into the implementation plans for each management unit plan, after this Plan is approved.

Public Reviews

The ESA requires that, at least every 5 years, the Secretary of Commerce shall conduct a review of all ESA-listed species and determine whether any species should: (1) be removed from such list; (2) be changed in status from an endangered species to a threatened species; or (3) be changed in status from a threatened species to an endangered species. Accordingly, at five-year intervals, NMFS will conduct reviews of the Middle Columbia steelhead DPS. These reviews will consider information that has become available since the most recent listing determinations, and make recommendations whether there is substantial information to suggest that a change in listing status may be warranted. If an ESU or DPS may warrant a change in status NMFS will conduct a formal, much more in-depth, ESA status review consistent with section 4(a) of the Act. Any formal status reviews will be based on the NMFS Listing Status Decision Framework and will be informed by the information obtained through implementation of the monitoring, research, and evaluation programs in each management unit plan and the recovery modules. Similarly, new information considered during the five-year reviews may also compel more in-depth assessments of implementation and effectiveness monitoring and associated research to inform adaptive management decisions at the management unit and module level.

Conclusion

NMFS has reviewed the Plan, the public comments, and the conclusions of the ICTRT from its reviews of the Plan. Based on that review, NMFS concludes that the Plan meets the requirements in section 4(f) of the ESA for developing a recovery plan.

Literature Cited

ICTRT (Interior Columbia Technical Recovery Team). 2007. Viability Criteria for Application to Interior Columbia Basin Salmonid ESUs. Review draft March 2007. Available at: *www.nwfsc.noaa.gov/trt/trt__viability.cfm*

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McClure, M.M., E.E. Holmes, B.L. Sanderson, and C.E. Jordan. 2003. A large-scale, multispecies status assessment: Anadromous salmonids in the Columbia River basin. Ecological Applications 13(4):964–989.

McElhany, P., M.H. Ruckelshaus, M.J. Ford, T.C. Wainwright, and E.P. Bjorkstedt. 2000. Viable salmon populations and the recovery of evolutionarily significant units. U.S. Dept. of Commerce, NOAA Tech. Memo., NMFS NWFSC 42, 156p.

Authority: 16 U.S.C. 1531 *et seq.*

National Marine Fisheries Service (NMFS). 2008. Recovery Plan Module for Mainstem Columbia River Hydropower Projects (''Hydro Module''). NMFS Northwest Region. Portland, Oregon.

National Marine Fisheries Service (NMFS). 2007. Columbia River Estuary ESA Recovery Plan Module for Salmon and Steelhead. November 5, 2007. Available at *www.nwr.noaa.gov/Salmon-Recovery-Planning/ESA-Recovery-Plans/Estuary-Module.cfm*

National Marine Fisheries Service (NMFS). 2008. Endangered Species Act - Section 7 Consultation Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Consultation: consultation on remand for operation of the Columbia River Power System and 19 Bureau of Reclamation Projects in the Columbia Basin (''FCRPS BiOp''). NMFS, Portland, Oregon.

Dated:September 22, 2009.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–23604 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR72

Endangered Species; File No. 10022

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for modification.

SUMMARY: Notice is hereby given that Raymond Carthy, Department of Wildlife Ecology and Conservation, University of Florida, P.O. Box 110485, Gainesville, Florida 23611–0450, has requested a modification to scientific research Permit No. 10022.

DATES: Written, telefaxed, or e–mail comments must be received on or before October 30, 2009.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East–West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; andSoutheast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East–West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e–mail. The mailbox address for providing e–mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e–mail comment the following document identifier: File No. 10022–01.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Amy Hapeman, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 10022, issued on April 29, 2008 (73 FR 23195) is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 10022 authorizes the permit holder to conduct research off the northwest coast of Florida for 5 years. Researchers may capture up to 40 loggerhead (*Caretta caretta*), 600 green (*Chelonia mydas*), and 110 Kemp's ridley (*Lepidochelys kempii*) sea turtles using strike–net or set–net capture techniques. Animals may be weighed, measured, photographed, skin biopsied, flipper and passive integrated transponder (PIT) tagged, and released. The permit holder requests authorization to use satellite telemetry to assess habitat use of sea turtles and study whether relocation distances for sea turtles captured in relocation trawlers are appropriate. The permit holder would attach transmitters to up to 12 green sea turtles captured by their project by research nets in St. Joseph Bay, Apalachicola Bay, and St. Andrews Bay. The permit holder would also attach transmitters to up to 25 green, hawksbill (*Eretmochelys imbricata*), Kemp's ridley, and loggerhead sea turtles (any combination) already legally captured by relocation trawlers in the St. Andrews Bay area. These animals would also be flipper and PIT tagged, measured, photographed, tissue sampled and weighed before release. The activities authorized by the modification would occur over the course of the permit through April 30, 2013.

Dated: September 24, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–23605 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR89

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 102nd Scientific and Statistical Committee (SSC) and 146th Council meetings to take recommendations and action on fishery management issues in the Western Pacific Region.

DATES: The 102nd SSC Meeting will be held October 14–16, 2009, and the 146th Council meeting will be held October 20–23, 2009. All meetings will be held in Honolulu, HI. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The SSC meetings will be held at the Council Office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, telephone: (808) 522–8220. The Council Meeting will be held at the Laniakea YWCA-Fuller Hall, 1040 Richards Street, Honolulu, HI 96813, telephone: (808) 538–7061.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: In addition to the agenda items listed here, the SSC and Council will hear recommendations from Council advisory groups. Public comment periods will be provided throughout the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for 102nd SSC Meeting

8:30 a.m., Wednesday October 14, 2009

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Status of the 101st SSC Meeting Recommendations
4. Report from the Pacific Islands Fisheries Science Center Director
5. Program Planning
   A. Update on Catch Shares Task Force
   B. Habitat
   1. Habitat Assessment and Improvement Plan
   2. Report on Deep-Slope Habitat Workshop
   3. Review of Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC)
   C. Public Hearing
   D. Discussion and Recommendations
6. Insular Fisheries
   A. Hawaii Archipelago
   1. Western Pacific Stock Assessment Review (WPSAR) of Hawaii bottomfish
   2. Haleiwa Shark Viewing Tour Research
   3. Larval Dispersal Model
   B. Recommendations on Acceptable Biological Catches for Insular Stocks (Action)
   C. Public Hearing
   D. Discussion and Recommendations

8:30 a.m., Thursday October 15, 2009

7. Pelagic Fisheries
   A. Longline Management
   1. Recommendations on Tuna Quota Management (Action)
   2. Recommendations on Territory Bigeye Longline Quotas (Action)
   B. Non-Longline Management
   1. Social and economic aspects of Hawaii's small boat fisheries
   2. Cross Seamount Total Allowable Catch
   3. Main Hawaiian Islands shortline management
   C. Update on Blue Shark Stock Assessment
   D. Hawaii Longline Shark Bycatch Information
   E. American Samoa and Hawaii Longline Quarterly Reports
   F. International Fisheries/Meetings
   1. Stock Assessments
   a. Western & Central Pacific Ocean (WCPO) Bigeye Tuna
   b. WCPO Yellowfin Tuna
   c. South Pacific Albacore Tuna
   d. North Pacific Swordfish Tuna
   1. Report of the Western & Central Pacific Fisheries Commission (WCPFC) Science Committee
   2. Report of the WCPFC Northern Committee
   3. Report of the WCPFC Technical & Compliance Committee

4. Report on North Pacific Regional Fishery Management Organization's Science Plan - Bob Humphreys
G. Pelagic Plan Team Report - Keith Bigelow
H. Public Hearing
I. Discussion and Recommendations
8. Protected Species
A. Loggerhead Status Review
B. Public Hearing
C. Discussion and Recommendations

8:30 a.m., Friday October 16, 2009

9. Other Business
A. 103rd SSC Meeting
10. Summary of SSC Recommendations to the Council

Schedule for 146th Council Meeting Standing Committees

10 a.m. - 12 noon, Tuesday October 20, 2009

Executive and Budget Standing Committee Meeting Schedule and Agenda for 146th Council Meeting

2 p.m. - 5:30 p.m., Tuesday, October 20, 2009

1. Introductions
2. Approval of Agenda
3. Approval of 145th Meeting Minutes
4. Executive Director's Report
5. Agency Reports
A. National Marine Fisheries Service
1. Pacific Islands Regional Office
2. Pacific Islands Fisheries Science Center
B. NOAA General Counsel
C. U.S. Fish and Wildlife Service
D. Law Enforcement
1. U.S. Coast Guard
2. NOAA NMFS Office for Law Enforcement
3. NOAA General Counsel for Enforcement and Litigation
E. Public Comments
F. Council Discussion and Action
6. Public Comments on Non-Agenda Items

9 a.m. - 5 p.m., Wednesday, October 21, 2009

Guest Speaker: Effects of El Nino in the Western Pacific Region
7. Mariana Archipelago Fisheries
A. Island Reports - Council Members
1. Arongol Faleey
2. Isla Informe
B. Enforcement Report - Council Members
1. Commonwealth of the Northern Mariana Islands (CNMI)
2. Guam
C. Community Issues
1. CNMI Division of Fish & Wildlife Effectiveness Model for Meeting the Conservation Goals of the Micronesian Challenge
2. Update on Military Buildup
3. Report on Guam Bio-sampling Workshop
4. Guam Marine Conservation Plan (Action)
D. Education and Outreach Reports
1. CNMI
2. Guam
E. Legislative Reports
F. SSC Recommendations
G. Public Hearing
H. Council Discussion and Action
8. American Samoa Archipelago Fisheries
A. Motu Lipoti
B. Enforcement Report
C. Community Issues
1. Update on Proposed National Marine Sanctuaries
2. Cannery Closure & Fisheries Development
D. Education and Outreach Report
E. Fono Report
F. SSC Recommendations
G. Public Comment
H. Council Discussion and Action
9. Hawaii Archipelago and Pacific Remote Islands Area Fisheries
A. Moku Pepa
B. Enforcement Report
C. Community Issues
1. Small Boat Fisheries in Hawaii
2. Hawaii Community Coordinator Projects
3. Fish Labeling Issues
4. Haleiwa Shark Viewing
D. Hawaii Precious Coral Fisheries
1. Report on CITES Corallium Workshops
E. Main Hawaiian Islands Bottomfish Fisheries
1. Western Pacific Stock Assessment Review of Hawaii bottomfish
2. Report on Catch Shares Task Force
F. FMP Amendment for Managements of Hancock Seamount
G. Hawaii Education Report
H. Legislative Report
I. SSC Recommendations
J. Public Comment
K. Council Discussion and Action

Fishers Forum: Fishermen as Scientists

6 p.m. - 9 p.m., Wednesday, October 21, 2009

Aloha Tower Marketplace, Pier 11

9 a.m. - 5 p.m., Thursday, October 22, 2009

10. Program Planning and Research
A. Recommendations for Annual Catch Limits for Known-MSY Species in the Western Pacific
B. Data Collection
1. Update on Marine Recreational Improvement Program
2. Recommendations on Recreational Fishery Permitting and Reporting in the Western Pacific Region
C.3. Report on the Non-Commercial Fisheries Advisory Committee Meeting
D. Recommendations for Aquaculture Management in the Western Pacific
1. Proposed Changes to the Council's Aquaculture Policy (Action)
2. Options for Aquaculture Management in the Western Pacific
E. Recommendations for Framework Process for Council Actions
F. Research
1. Information and Data Needs for Archipelago FEPs
G. Habitat
1. Habitat Assessment and Improvement Plan
2. Report on Deep-slope Habitat Workshop
H. Compensation for Fishermen Excluded from Pacific Monuments
I. National and International Education and Outreach Reports
J. SSC Recommendations
K. Public Hearing
L. Council Discussion and Action - Sean Martin
11. Pelagic and International Fisheries Committee Chair
A. Action Items
1. Recommendations for Management of Hawaii Longline Tuna Quota (Action)
2. Recommendations for Territorial Longline Quotas (Action)
3. Recommendations for Options for Shortline Management in the Main Hawaiian Islands Longline Exclusion Zone
4. Options for Management of Tuna and Seamount Monchong at the Cross Seamount
B. Longline Fishery Quarterly Reports
1. American Samoa Longline Fishery
2. Hawaii Limited-entry Longline Fishery
C. Hawaii Longline Shark Bycatch Information
D. Report on U.S. Purse Seine Fishing in the Western Pacific
E. International Fisheries/Meetings
1. Western & Central Pacific Fisheries Commission
a. Science Committee
b. Northern Committee
c. Technical Compliance Committee
2. North Pacific Seamount Regional Fisheries Management Organization
F. Sea Turtle Advisory Committee Recommendations
G. Pelagic Plan Team Recommendations
H. SSC Recommendations
I. Public Hearing
J. Council Discussion and Action

9 a.m. - noon, Friday, October 23, 2009

12. Administrative Matters and Budgets
A. Financial Report
1. Five Year Budget and Program 2010–14

B. Administrative Report
C. Meetings and Workshops (Calendar)
D. Council Family Changes
E. Recommendations on Changes to Standard Operation Proceedings & Practices (Action)
1. NMFS Operational Guidelines
2. GAO Recommendations
F. Update on General Accounting Office Recommendations
G. Executive and Budget Standing Committee Recommendations
H. Public Comment
I. Council Discussion and Action
13. Other Business
A. Ethics Guidance
B. Closed Session
1. Personnel Matters
2. General Counsel Report to Council on Litigation
B. Election of Officers
C. 147th Council Meeting

Non-emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 146th meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 25, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23512 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, September 30, 2009, 2 p.m.

PLACE: Room 714, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED: Compliance Weekly Report—Commission Briefing; the staff will brief the Commission on various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Dated: September 23, 2009.

Todd A. Stevenson,

Secretary.

[FR Doc. E9–23464 Filed 9–29–09; 8:45 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, October 7, 2009, 2 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Weekly Report—Commission Briefing

The staff will brief the Commission on various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Todd A. Stevenson,

Secretary.

[FR Doc. E9–23465 Filed 9–29–09; 8:45 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, October 7, 2009, 9 a.m.–12 noon.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East-West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: 1. GAO Presentation on Their Report, Better Information and Planning Would Strengthen CPSC 's Oversight of Imported Products.

2. CPSC Staff Presentation on Actions Being Taken to Implement the Recommendations in the GAO Report.

3. CPSA 15j—Status of Substantial Hazard Listing on Drawstrings and Hair Dryers.

4. Status Product Registration Cards.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Todd A. Stevenson,

Secretary.

[FR Doc. E9–23466 Filed 9–29–09; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Meeting of the Board of Visitors of the Marine Corps University

AGENCY: Department of the Navy, DOD.

ACTION: Notice of Open Meeting.

SUMMARY: The Board of Visitors of the Marine Corps University (BOV MCU) will meet to review, develop and provide recommendations on communication aspects of the University in order to further the growth and internal communication practices of the Marine Corps University. All sessions of the meeting will be open to the public.

DATES: The meeting will be held on Friday, October 30, 2009, from 9 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Alexandria—Old Town. The address is: 1900 Diagonal Road, Alexandria, Virginia, 22314, telephone number (703) 684–5900.

FOR FURTHER INFORMATION CONTACT: Ms. Davi Michelle Richardson, Faculty Development Coordinator, Marine Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, telephone number (703) 784–2884.

Dated: September 23, 2009.

A.M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E9–23537 Filed 9–29–09; 8:45 am]

BILLING CODE 3810–FF–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act; Notice of Public Meeting Agenda

DATE AND TIME: Thursday, October 8, 2009. 1 p.m.–3 p.m. EDT.

PLACE: U.S. Election Assistance Commission, 1225 New York Ave., NW., Suite 150, Washington, DC 20005, (Metro Stop: Metro Center).

AGENDA: The Commission will hold a public meeting to consider administrative matters. The Commission will receive an update regarding the iBeta Lab Assessment Report. The Commission will consider a Memorandum of Understanding (MOU) with the Organization of American States (OAS). The Commission will host a panel discussion regarding voting accessibility. Members of the public may observe but not participate in EAC meetings unless this notice provides otherwise. Members of the public may use small electronic audio recording devices to record the proceedings. The use of other recording equipment and cameras requires advance notice to and coordination with the Commission's Communications Office.*

* View EAC Regulations Implementing Government in the Sunshine Act.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Signed:

Alice Miller,

Chief Operating Officer, U.S. Election Assistance Commission.

[FR Doc. E9–23629 Filed 9–28–09; 11:15 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC09–592–000]

Commission Information Collection Activities (FERC–592); Comment Request; Extension

September 23, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments in consideration of the collection of information are due November 30, 2009.

ADDRESSES: Comments may be filed either electronically or in paper format, and should refer to Docket No. IC09–592–000. Documents must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines at *http://www.ferc.gov/help/submission-guide.asp*.

Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. First time users will have to establish a user name and password (*http://www.ferc.gov/docs-filing/eregistration.asp*) before eFiling. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments through eFiling.

Commenters filing electronically should not make a paper filing. Commenters that are not able to file electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Users interested in receiving automatic notification of activity in this docket may do so through eSubscription (at *http://www.ferc.gov/docs-filing/esubscription.asp*). In addition, all comments and FERC issuances may be viewed, printed or downloaded remotely through FERC's Web site using the ''eLibrary'' link and searching on Docket Number IC09–592. For user assistance, contact FERC Online Support (e-mail at *ferconlinesupport@ferc.gov*, or call toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659).

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by telephone at (202) 502–8663, by fax at (202) 273–0873, and by e-mail at *ellen.brown@ferc.gov*.

SUPPLEMENTARY INFORMATION: FERC–592 (''Marketing Affiliates of Interstate Pipelines, Standards of Conduct for Transmission Providers,'' OMB No. 1902–0157) includes the reporting, recordkeeping, and posting requirements in:

- 18 CFR Part 358 (Standards of Conduct),[1]
- 18 CFR 250.16, and
- FERC Form No. 592 log/format, that is posted at *http://www.ferc.gov/docs-filing/eforms.asp#592*.

Hereafter, this Notice will refer to this group of collections of information as ''FERC–592.''

Under Section 4 of the Natural Gas Act (NGA), the Commission has the regulatory responsibility to ensure that pipeline rates are just and reasonable. In order to ensure just and reasonable rates and services, the Commission must achieve two objectives: prevent undue discrimination in natural gas markets, and promote competitive and efficient markets while mitigating market power. In short, the Commission's regulatory policy must seek to reconcile the objectives of fostering an efficient market that provides good alternatives to as many shippers as possible, while at the same time creating a regulatory framework that is fair and protects captive customers without good alternatives.

The ''FERC–592'' information (that is posted on the Web site, maintained, or provided by the respondents, as required) is used by the Commission to monitor the pipeline's transportation, sales, and storage activities for its marketing affiliate, and to deter undue discrimination by pipeline companies in favor of their affiliates. The information is also used by non-affiliated shippers, customers, and others (such as state commissions) to determine whether they have been harmed by affiliate preference and, in some cases, to prepare evidence for proceedings following the filing of a complaint or that address NGA section 4 rate cases.

Action: The Commission is requesting a three-year extension of the current reporting requirements, with no change.

Burden Statement: The estimated annual public reporting burden follows.

[1] The requirements in 18 CFR Part 358 (that are related to the natural gas industry) are included in OMB No. 1902–0157 and this Notice. However, the requirements in Part 358 that are related to the electric utility industry are covered by FERC–717 (OMB Control No. 1902–0173) and are not a subject of this Notice.

Information collection ("FERC–592," OMB No. 1902–0157)	Number of respondents annually	Number of responses per respondent	Average burden hours per response	Total annual burden hours
	(1)	(2)	(3)	(1) × (2) × (3)
18 CFR Part 358 [1] 18 CFR 250.16 FERC Form No. 592 log/format	85	1	116.62	9,913

Note: These figures may not be exact, due to rounding.

The total estimated annual cost burden [2] to respondents is $611,446.22 [(9,913 hours/2,080 hours per year) × $128,297/year]. The average annual cost per respondent is $7,193.48.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the log of data used to allocate capacity and the transportation discount information pipelines required to post and/or maintain under 18 CFR 250.16 are still being used, (2) whether the format for submitting data prescribed in the FERC Form No. 592 needs to be updated, (3) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (4) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (5) ways to enhance the quality, utility and clarity of the information to be collected; and (6) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

[2] The average number of hours an employee works per year is 2,080. The average employee costs $128,297 per year.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23516 Filed 9–29–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13564–000]

Dexter-Russell, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

September 23, 2009.

On July 31, 2009, Dexter-Russell, Inc. filed an application, pursuant to Section 4(f) of the Federal Power Act, proposing to study the feasibility of the Dexter-Russell Water Power Project No. 13564, to be located on the Quinebaug River, in Worcester County, Massachusetts.

The proposed project would consist of: (1) The existing 11.5-foot-high, 370-foot-long Russell-Harrington Mill Pond Dam with a 30-foot-long masonry abutment; (2) an existing 8-acre impoundment with a normal water surface elevation of 477.5 feet mean sea level; (3) two new siphon turbine generating units with a combined capacity of 500 kilowatts; (4) a new 790-square-foot forebay and 45-foot-long full-depth trash rack with automated rake; (5) a new 13.8-kilovolt, 380-foot-long transmission line; and (6) appurtenant facilities. The project would have an estimated annual generation of 1,500 megawatt-hours.

Applicant Contact: Robert Ouellette, Dexter-Russell, Inc., 44 River Street, Southbridge, MA 01550, (508) 765–0201.

FERC Contact: Brandon Cherry, (202) 502–8328.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing application: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.*

Enter the docket number (P–13564) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23515 Filed 9–29–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–464–000; PF08–25–000]

Colorado Interstate Gas Company; Notice of Application

September 23, 2009.

Take notice that on September 10, 2009, Colorado Interstate Gas Company (CIG) filed in the above referenced docket an application pursuant to

section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations for an order granting a certificate of public convenience to construct and operate the new North Raton Lateral, with appurtenances, in southern Colorado. The project is hereafter referred to as the Raton 2010 Expansion Project. CIG proposes to construct approximately 118 miles of 16-inch diameter pipeline with a total capacity of approximately 130,000 dekatherms per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Specifically, the Raton 2010 Expansion Project consists of (i) approximately 118.6 miles of 16-inch diameter pipeline in Las Animas, Huerfano, Pueblo, and El Paso Counties, Colorado; (ii) new incremental rates related to the cost of service on the new lateral; and (iii) minor modifications to existing compressor and meter stations to allow CIG to transport the additional volumes from the proposed expansion. The Raton 2010 Expansion Project has a design capacity of approximately 130,000 Dth per day subject to long-term firm transportation agreements to move the gas from the Raton Basin to an interconnect with CIG's mainline in El Paso County, Colorado. The estimated costs of the project are approximately $132 million.

Any questions concerning this application may be directed to Richard Derryberry, Director, Regulatory Affairs, Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944, by phone at (719) 520–3788, or by fax at (719) 520–4898.

On June 24, 2008 the Commission staff granted CIG's request to utilize the National Environmental Policy Act (NEPA) Pre-Filling Process and assigned Docket No. PF08–25–000 to staff activities involving the Raton 2010 Expansion Project. Now, as of the filing of CIG's application on September 10, 2009, the NEPA Pre-Filling Process for this project has ended. From this time forward, CIG's proceeding will be conducted in Docket No. CP09–464–000, as noted in the caption of this Notice.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: October 14, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23518 Filed 9–29–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13421–000]

Dillon Dam Hydroelectric Project; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

September 23, 2009.

On April 2, 2009, Muskingum Valley Hydro (Muskingum) filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of developing the Dillon Dam Hydroelectric Project, to be located on the Licking River in Muskingum County, near Zanesville, Ohio. The proposed project would be located at the U.S. Army Corps of Engineers Dillon Dam consisting of the existing 1,560-acre impoundment with a normal water surface elevation of 735 feet mean sea level.

The proposed project would consist of: (1) A new powerhouse to be located on the downstream side of Dillon dam

below the outlet works; (2) a new 50-foot-long, 96-inch penstock; (3) a new turbine generator unit with an installed capacity of 1.59 MW; and (4) a new 300-foot-long, 14.7-kV transmission line. The project would have an estimated average annual generation of 9,700 megawatt-hours. Muskingum states that it will investigate various other types of hydroelectric generation at the site including Very Low Head Turbine technology.

Applicant Contact: Randall Smith, Muskingum Valley Hydro, 4950 Frazeysburg Road, Zanesville, Ohio 43701 (740) 891–5424.

FERC Contact: Patrick Murphy, (202) 502–8755.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13421) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23517 Filed 9–29–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 23, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER07–509–002.

Applicants: California Power Holdings, LLC.

Description: California Power Holdings, LLC submits revised amendment to market based rate tariff.

Filed Date: 09/18/2009.

Accession Number: 20090922–0066.

Comment Date: 5 p.m. Eastern Time on Friday, October 09, 2009.

Docket Numbers: ER09–32–004.

Applicants: Barton Windpower LLC.

Description: Notice of Non-Material Change in Status of Barton Windpower LLC.

Filed Date: 09/23/2009.

Accession Number: 20090923–5048.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 14, 2009.

Docket Numbers: ER09–1479–001.

Applicants: Kansas Energy LLC.

Description: Kansas Energy LLC submits its amended Petition.

Filed Date: 09/21/2009.

Accession Number: 20090922–0070.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1643–001.

Applicants: E.ON U.S., LLC.

Description: Louisville Gas and Electric Co *et al.* submits Substitute First Revised Sheet 104 *et al.* to FERC Electric Tariff, Fourth Revised Volume 1.

Filed Date: 09/21/2009.

Accession Number: 20090922–0036.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1677–001.

Applicants: Big Sky Wind, LLC.

Description: Big Sky Wind, LLC submits Sub. Original Sheet 3 to its proposed tariff to correct an inadvertent error in the tariff submitted on Sept. 3.

Filed Date: 09/21/2009.

Accession Number: 20090922–0071.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1711–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits an informational filing that is intended to provide notice re the ISO's revised transmission access charges effective 5/1/09.

Filed Date: 09/15/2009.

Accession Number: 20090916–0092.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 06, 2009.

Docket Numbers: ER09–1723–000.

Applicants: Dry Lake Wind Power, LLC.

Description: Application of Dry Lake Wind Power, LLC for order accepting initial tariff, Waiving 60 day prior notice requirement and granting Blanket Approvals *etc.*

Filed Date: 09/22/2009.

Accession Number: 20090923–0008.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1724–000.

Applicants: Cleco Power LLC.

Description: Cleco Power, LLC submits an amendment to the Electric System Interconnection Agreement with Southwestern Electric Power Co.

Filed Date: 09/21/2009.

Accession Number: 20090922–0037.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1726–000.

Applicants: ALLETE, Inc.

Description: Allete, Inc submits Schedule 2 to its Open Access Transmission Tariff in order to govern the provision of reactive power and voltage support over certain high-voltage direct-current transmission facilities *etc.*

Filed Date: 09/21/2009.

Accession Number: 20090922–0072.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1727–000.

Applicants: Midwest Independent Transmission System Operator, Inc.; ALLETE, Inc.

Description: Midwest Independent Transmission System Operator, Inc. *et al.* submits agency agreement and revisions to the Midwest ISO's open access transmission, energy and operating reserve markets tariff.

Filed Date: 09/21/2009.

Accession Number: 20090922–0073.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1728–000.

Applicants: ALLETE, Inc.

Description: Allete, Inc. submits Interconnection and Operating Agreement.

Filed Date: 09/21/2009.

Accession Number: 20090922–0068.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1732–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Original Service Agreement 1806 to FERC Electric Tariff, Fifth Revised Volume 1.

Filed Date: 09/22/2009.

Accession Number: 20090923–0007.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1733–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits revisions to an executed Meter Agent Services Agreement between Dodwood Energy, LLC as the

Market Participant and KCP&L Greater Missouri Operations Co.

Filed Date: 09/22/2009.

Accession Number: 20090923–0006.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM09–7–000.

Applicants: Old Dominion Electric Cooperative, Inc.

Description: Application of Old Dominion Electric Cooperative to Terminate Purchase Obligation.

Filed Date: 09/23/2009.

Accession Number: 20090923–5019.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 21, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–23546 Filed 9–29–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1710–000]

KEB Trading, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

September 23, 2009.

This is a supplemental notice in the above-referenced proceeding of KEB Trading, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is October 13, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC, 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–23545 Filed 9–29–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2009–0688; FRL–8963–9]

Board of Scientific Counselors, Computational Toxicology Subcommittee Meeting—October 2009

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of one meeting of the Board of Scientific Counselors (BOSC) Computational Toxicology Subcommittee.

DATES: The meeting (via teleconference) will be held on Wednesday, October 21, 2009, from 1 p.m. to 3 p.m. All times noted are Eastern time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to one business day before the meeting.

ADDRESSES: Participation in the conference call will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the call from Lorelei Kowalski, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2009–0688, by one of the following methods:

• *www.regulations.gov:* Follow the on-line instructions for submitting comments.

• *Email:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2009–0688.

• *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2009–0688.

• *Mail:* Send comments by mail to: Board of Scientific Counselors, Computational Toxicology Subcommittee Meetings—Fall 2009 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. EPA–HQ–ORD–2009–0688.

• *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2009–0688. Note: this is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0688. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Board of Scientific Counselors, Computational Toxicology Subcommittee Meetings—Fall 2009 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Lorelei Kowalski, Mail Code 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–3408; via fax at: (202) 565–2911; or via email at: *kowalski.lorelei@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Lorelei Kowalski, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda item for the meeting includes, but is not limited to: discussion of the subcommittee's draft letter report on ORD's National Center for Computational Toxicology (NCCT). The meeting is open to the public. The subcommittee roster and charge can be accessed at: *http://www.epa.gov/osp/bosc/subcomm-ctox.htm.* The meeting is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Lorelei Kowalski at (202) 564–3408 or *kowalski.lorelei@epa.gov.* To request accommodation of a disability, please contact Lorelei Kowalski, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 23, 2009.

Fred Hauchman,

Director, Office of Science Policy.

[FR Doc. E9–23632 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8964–4]

National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, EPA gives notice of a meeting of the National Advisory Committee (NAC) and Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC). The National and Governmental Advisory Committees advise the EPA Administrator in her capacity as the U.S. Representative to the CEC Council. The Committees are authorized under Articles 17 and 18 of the North American Agreement on Environmental Cooperation (NAAEC), North American Free Trade Agreement Implementation Act, Public Law 103–182, and as directed by Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation.'' The NAC is composed of 12 members representing academia, environmental non-governmental organizations, and private industry. The GAC consists of 12 members representing State, local, and Tribal governments. The Committees are responsible for providing advice to the U.S. Representative on a wide range of strategic, scientific, technological, regulatory, and economic issues related to implementation and further elaboration of the NAAEC.

The purpose of the meeting is to provide advice on the CEC's 2010 Draft Operational Plan, the CEC's new Strategic Plan, and learn about regional trans-boundary environmental issues. The meeting will also include a public comment session. A copy of the agenda will be posted at *http://www.epa.gov/ocem/nacgac-page.htm.*

DATES: The National and Governmental Advisory Committees will hold an open meeting on Wednesday, October 14, from 8:30 a.m. to 5:30 p.m., and Thursday, October 15, from 8:30 a.m. until 1:15 p.m.

ADDRESSES: The meeting will be held, tentatively, at either of these hotels: (1) Stowe Mountain Center, 5781 Mountain Road, Stowe, Vermont 05672. Telephone: 802–253–3558; or, (2) The Essex, 70 Essex Way, Essex Junction, VT 05452. Telephone: 802–878–1100. The meeting is open to the public, with limited seating on a first-come, first-served basis. The exact location will be posted, at *http://www.epa.gov/ocem/nacgac-page.htm,* prior to the meeting. However, interested parties should contact Oscar Carrillo (see below).

FOR FURTHER INFORMATION CONTACT: Oscar Carrillo, Designated Federal Officer, *carrillo.oscar@epa.gov,* 202–564–0347, U.S. EPA, Office of Cooperative Environmental Management (1601–M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or provide written comments to the Committees should be sent to Oscar Carrillo, Designated Federal Officer, at the contact information above.

Meeting Access: For information on access or services for individuals with disabilities, please contact Oscar Carrillo at 202–564–0347 or *carrillo.oscar@epa.gov.* To request accommodation of a disability, please contact Oscar Carrillo, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 25, 2009.

Cynthia Jones-Jackson,

Acting Designated Federal Officer.

[FR Doc. E9–23573 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8964–1]

Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health; Technical Support Document, Volume 3: Development of Site-Specific Bioaccumulation Factors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of final document.

SUMMARY: In 2000, EPA announced the availability of final revisions to the *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2000)* (hereafter ''2000 Human Health Methodology'') published pursuant to section 304(a) (1) of the Clean Water Act (CWA). Along with the 2000 Human Health Methodology, EPA committed to publishing several technical support documents to provide additional detail to the Methodology document, including two documents that describe the development of bioaccumulation factors for use in ambient water quality criteria calculations. In 2003, EPA announced the release of the *Technical Support Document Volume 2: Development of National Bioaccumulation Factors* (hereafter ''National BAF TSD''). Today, the Agency is releasing the *Technical Support Document, Volume 3: Development of Site-Specific Bioaccumulation Factors* (hereafter ''Site-Specific BAF TSD'') that accompanies the Methodology and the National BAF TSD. EPA accepted scientific views on the draft document in two separate **Federal Register** Notices. The National BAF TSD contains technical details on how EPA develops national bioaccumulation factors for use in deriving national recommended ambient water quality criteria for protecting human health. The Site-Specific BAF TSD contains technical details on how States and Tribes may develop site-specific bioaccumulation factors for use in deriving site-specific ambient water quality criteria for protecting human health. The goal in deriving site-specific BAFs is to determine the most accurate estimates of bioaccumulation feasible for each site.

FOR FURTHER INFORMATION CONTACT: Heidi L. Bethel, Health and Ecological Criteria Division (4304T), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; (202) 566–2054; *bethel.heidi@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Where can I find additional information on this document?

EPA solicited scientific views on the draft document in two separate **Federal Register** Notices (73 FR 36866 and 73 FR 46624). Scientific views were accepted at *http://www.regulations.gov* at Docket ID No. EPA–HQ–OW–2008–0494. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Office of Water Docket/EPA/DC, 1301 Constitution Ave, NW., EPA West, Room 3334, Washington DC. This Docket Facility is open from 8:30 a.m. until 4:30 p.m., EDT, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Office of Water is (202) 566–2426.

Scientific views received by EPA and a document indicating EPA's response to scientific views can also be found at the docket locations listed above. A range of scientific views were received on the document. Views received did result in some minor changes to the document including some changes to table and figure captions; an example calculation correction and clarification of chemical types for which the document applies. A comprehensive list of changes to the document can be found in the response document. Other comments were addressed in the comment document, but did not result in changes to the document.

A. Does This Action Apply to Me?

The intended audience for the Site-Specific BAF TSD includes State and Tribal water quality staff scientists or risk assessors (''investigators'') who are responsible for deriving State or Tribal water quality standards, stakeholders interested in developing site-specific BAFs, and other users interested in site-specific bioaccumulation issues for other applications.

II. What Are Water Quality Criteria?

Water quality criteria are scientifically derived numeric and/or narrative values that protect applicable designated uses, *e.g.*, aquatic life or human health, from the deleterious effects of pollutants in ambient water. Section 304(a)(1) of the Clean Water Act requires EPA to develop and publish and, from time to time, revise water quality criteria to accurately reflect the latest scientific knowledge. Water quality criteria developed under section 304(a) are based solely on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. Section 304(a) criteria do not reflect consideration of economic impacts or the technological feasibility of meeting the chemical concentrations in ambient water. Section 304(a) criteria provide guidance to States and authorized Tribes in adopting water quality standards that ultimately provide a basis for controlling discharges or releases of pollutants. The criteria also provide guidance to EPA when promulgating Federal regulations

under section 303(c) when such action is necessary.

The 2000 Human Health Methodology, along with the Technical Support Documents, provides States and authorized Tribes with guidance to adjust water quality criteria developed by EPA under section 304 to reflect local conditions or to develop their own water quality criteria using scientifically defensible methods. EPA believes that ambient water quality criteria inherently require several risk management decisions that are, in many cases, better made at the State, Tribal, or regional level. EPA encourages States and authorized Tribes to use the final Methodology and Technical Support Documents to develop site-specific water quality criteria to appropriately reflect local conditions. The Site-Specific BAF TSD, released with today's announcement, will assist States and authorized Tribes in development of site-specific BAFs for use in site-specific ambient water quality criteria calculations.

III. Background Information on the Bioaccumulation Factors Technical Support Document Volume III (Site-Specific BAF TSD)

In order to prevent harmful exposures to chemicals in water through eating contaminated fish and shellfish, national section 304(a) water quality criteria for protecting human health address chemical bioaccumulation in aquatic organisms. Bioaccumulation occurs when aquatic organisms accumulate chemicals in their bodies when they are exposed to these chemicals through the surrounding media (*e.g.,* water, food, sediment). The extent of bioaccumulation by aquatic organisms varies widely depending on the chemical and the species, but it can be extremely high for some highly persistent and lipid-soluble chemicals. For such highly bioaccumulative chemicals, concentrations in aquatic organisms may pose unacceptable human health risks from eating fish and shellfish even when concentrations in water are too low to cause unacceptable health risks from drinking the water.

EPA developed detailed procedures and guidelines described in the 2000 Human Health Methodology for estimating bioaccumulation factor (BAF) values for use in deriving or revising ambient water quality criteria. The National BAF TSD discusses the technical basis for developing national BAFs, the underlying assumptions and uncertainties inherent to the approach, and applying the bioaccumulation component of the 2000 Human Health Methodology. The Site-Specific BAF TSD expands on the information presented in the National BAF TSD by providing users with specific information on how to calculate site-specific BAFs for use in modifying the national section 304(a) criteria, and is available on EPA's Web site at *http://www.epa.gov/waterscience/criteria/humanhealth/method/index.html*. Both documents rely on a framework for selecting the appropriate procedure for deriving BAFs that is based on chemical properties, biological activity and scientific information. The Site-Specific BAF TSD presents methods for States, Tribes and other interested parties to calculate BAFs that are specific to their site. The goal in deriving site-specific BAFs is to determine the most accurate estimates of bioaccumulation feasible for each site.

Dated: September 21, 2009.

Michael H. Shapiro,

Acting Assistant Administrator, Office of Water.

[FR Doc. E9–23631 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0608; FRL–8433–1]

Pesticide Experimental Use Permit; Receipt of Application; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of an application 67979–EUP–I from Syngenta Seeds Inc. requesting an experimental use permit (EUP) for the plant-incorporated protectant (PIP) [Event 5307] *Bacillus thuringiensis* eCry3.1Ab protein and the genetic material necessary for its production (vector pSYN12274) in event 5307 corn (SYN–Ø53Ø7–1) and combined trait hybrids with one or more of the following additional PIPs: 1) [Bt11] *Bacillus thuringiensis* Cry1Ab delta-endotoxin and the genetic material (as contained in plasmid vector pZO1502) necessary for its production in corn, 2) [DAS–59122–7] *Bacillus thuringiensis* Cry34Ab1 and Cry35Ab1 proteins and the genetic material (vector PHP 17662) necessary for their production in Event DAS–59122–7 corn, 3) [MIR162] *Bacillus thuringiensis* Vip3Aa20 and the genetic material necessary for its production (vector pNOV1300) in event MIR162 maize (SYN–IR162–4), 4) [MIR604] Modified Cry3A protein and the genetic material necessary for its production (via elements of pZM26) in corn (SYN–IR604–8), and 5) [TC1507] *Bacillus thuringiensis* Cry1F protein and the genetic material (vector PHP8999) for its production in Event TC1507 corn. The Agency has determined that the permit may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before October 30, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0608, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington,VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0608. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM

you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address: *mendelsohn.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons interested in agricultural biotechnology or those who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

Under section 5 of FIFRA, 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on 10 acres or more of land or one acre or more of water.

In accordance with 40 CFR 172.11(a), the Agency has determined that the following EUP application may be of regional and national significance, and therefore is seeking public comment on the EUP application:

Submitter: Syngenta Seeds Inc., (67979–EUP–I).

Pesticide Chemical: [Event 5307] *Bacillus thuringiensis* eCry3.1Ab protein and the genetic material necessary for its production (vector pSYN12274) in event 5307 corn (SYN–Ø53Ø7–1).

Summary of Request: The 67979–EUP–I application is for 6,889 acres of Event 5307 and combined trait hybrid PIPs corn as described under **SUMMARY**, 2,606 acres of non-PIP corn, and 2,951 acres of border rows for a total of 12,446 acres during the 2010 growing season. During the 2011 growing season, 6,835 acres of Event 5307 and combined trait hybrid PIPs corn, 2,584 acres of non-PIP corn, and 2,919 acres of border rows for a total of 12,338 acres are proposed.

Five trial protocols will be conducted, including:

- Breeding and observation.
- Efficacy evaluation.
- Agronomic observation.
- Inbred and sample hybrid seed production.
- Regulatory studies.

States and Commonwealth involved include: Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Oklahoma, Puerto Rico, South Carolina, South Dakota, Texas, Washington, and Wisconsin.

A copy of the application and any information submitted is available for public review in the docket established for this EUP application as described under **ADDRESSES**.

Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the EUP request, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

List of Subjects

Environmental protection, Experimental use permits.

Dated: September 22, 2009.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–23587 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0716; FRL–8792–5]

Pesticide Product Registration Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application to register the pesticide product Bedoukian l-Carvone containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Colin Walsh, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0298; e-mail address: *walsh.colin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0716. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Did EPA Approve the Application?

The Agency approved the application after considering all required data on risks associated with the proposed use of l-Carvone, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of l-Carvone when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

III. Approved Application

EPA issued a notice, published in the **Federal Register** of March 4, 2009 (74 FR 9396) (FRL–8401–7), which announced that Bedoukian Research Inc., 21 Finance Dr., Danbury, CT. 06810, had submitted an application to register the pesticide product, Bedoukian l-Carvone, mosquito repellent (EPA File Symbol 52991-23), containing the new active ingredient, l-Carvone, comprised of oil from the spearmint plant. This product was not previously registered.

The application was approved on September 2, 2009, as Bedoukian l-Carvone (EPA Registration Number 52991-23) for use as a mosquito repellent. (Colin Walsh: C. Walsh).

List of Subjects

Environmental protection, Chemicals, Pests and pesticides.

Dated: September 21, 2009.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–23449 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0352; FRL–8436–4]

Pesticide Product Registration Approval; Opportunity for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register pesticide products containing saflufenacil, a new active ingredient not included in any previously registered products, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended; and the opening of a comment period on such approval.

DATES: Comments must be received on or before November 30, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0352, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0352. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kathryn Montague, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–1243; e-mail address: *montague.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. FIFRA Registrations

On January 31, 2008, EPA received applications from BASF Corporation, 26 Davis Dr., P.O. Box 13528, Research Triangle Park, NC 27709–3528, to register six new pesticide products containing saflufenacil as an active ingredient under section 3 of FIFRA, 7 U.S.C. 136a. Saflufenacil is a light dependent peroxidizing herbicide (LDPH) which acts by inhibiting protoporphyrinogen-oxidase (PPO) in the heme and chlorophyll biosynthetic pathway in plants. The applications sought the use of saflufenacil on a wide variety of agricultural use sites (cereal small grains, corn, chickpeas, cotton, edible beans and peas, lentils, lupine, sorghum, soybeans, sunflowers, fruit tree orchards, nut tree orchards and vineyards) as well as non-agricultural sites, including pine plantations, rights-of-way, bare ground and Christmas tree plantations.

The applications have been approved as Kixor Herbicide Technical (EPA

Registration Number 7969-275), Treevix Powered by Kixor Herbicide (EPA Registration Number 7969-276), Sharpen Powered by Kixor Herbicide (EPA Registration Number 7969-278), Integrity Powered by Kixor Herbicide (EPA Registration Number 7969-279), Optill Powered by Kixor Herbicide (EPA Registration Number 7969-280), and BAS 800 02/03 Powered by Kixor Herbicide (EPA Registration Number 7969-277.

The Agency approved the applications after considering all required data on risks associated with the proposed use of saflufenacil, and information on social, economic, and environmental benefits to be derived from its use. Specifically, the Agency considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that saflufenacil, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

B. FFDCA Tolerances

Along with the applications for registration of Kixor Herbicide Technical, Treevix Powered by Kixor Herbicide, Sharpen Powered by Kixor Herbicide, Integrity Powered by Kixor Herbicide, Optill Powered by Kixor Herbicide, and BAS 800 02/03 Powered by Kixor Herbicide, BASF Corporation filed a petition for tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. The petition requested that tolerances be established for residues of saflufenacil in or on legume vegetables (group 06), citrus fruits (group 10), pome fruits (group 11), stone fruits (group 12), tree nuts (group 14), pistachio, cereal grains (group 15), undelinted cotton seed, cotton gin byproducts, grape, foliage of legume vegetables (group 07), forage, fodder and straw of cereal grains (group 16), sorghum stover, almond hulls, sunflower seed, animal kidney, and animal liver.

In the **Federal Register** of June 13, 2008 (73 FR 33814) (FRL–8367–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of this petition.

III. What Action is the Agency Taking?

Although the Agency solicited comments on the petition for tolerances under the FFDCA, it did not do so regarding the applications for registration under FIFRA. Therefore, EPA is now seeking comment on the registrations for the saflufenacil technical and end-use products, issued under section 3 of FIFRA. After consideration of all comments received, the Agency will take appropriate action based on that consideration and issue another **Federal Register** notice responding to comments received.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: September 16, 2009.

Rachel C. Holloman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E9–23213 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0191; FRL–8437–7]

Organic Arsenicals; Product Cancellation Order and Amendments to Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of products containing the pesticide organic arsenicals, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a July 8, 2009 **Federal Register** Notice of Receipt of Requests from the organic arsenical registrants to voluntarily cancel or amend to terminate uses of their organic arsenical product registrations.

DATES: The cancellations are effective September 30, 2009.

FOR FURTHER INFORMATION CONTACT: Tom Myers, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8589; fax number: (703) 308–8005; e-mail address: *myers.tom@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0191. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Action is the Agency Taking?

The organic arsenicals include the pesticides monosodium methanearsonate (MSMA), disodium methanearsonate (DSMA), calcium acid methanearsonate (CAMA), and cacodylic acid and its sodium salt. The requests terminate the following uses of MSMA: Residential; forestry; non-bearing fruit and nuts; citrus, bearing and non-bearing; bluegrass, fescue and ryegrass grown for seed; drainage ditch banks; railroad, pipeline, and utility rights of way; fence rows; storage yards; and similar non-crop areas. In addition, the requests terminate all uses of MSMA in Florida except for use on cotton grown in Calhoun, Columbia, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Okaloosa, Santa Rosa, Suwannee, Walton, and Washington counties. The requests would not terminate the last MSMA products registered for use in the United States. These requests for voluntary cancellation and amendment of MSMA containing products are the result of an agreement in principle signed by the EPA and the technical registrants of the

organic arsenicals on January 16 and February 5, 2009. The registrants have requested voluntary cancellation of all products containing DSMA, CAMA, cacodylic acid and its sodium salt in accordance with the agreement. The requests would terminate the last DSMA, CAMA, and cacodylic acid and its sodium salt products registered for use in the United States. In the July 8, 2009 Notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 30–day comment period that would merit its further review of these requests, or unless the registrant(s) withdrew their request(s) within this period. The Agency received comments on the notice but none merited its further review of the requests. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and amendments to terminate uses. Any distribution, sale, or use of the organic arsenical products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

This notice announces the cancellation and amendments to terminate uses, as requested by registrants, of end-use and manufacturing-use organic arsenical products registered under section 3 of FIFRA. These registrations are listed in sequence by registration number in Tables 1 and 2 of this unit.

TABLE 1.—ORGANIC ARSENICAL PRODUCT CANCELLATIONS

Registration Number	Product Name	Chemical Name
239–2510	Ortho Crabgrass Killer Formula II	CAMA
239–2572	Ortho Crabgrass Killer Spray	CAMA
538–10	Scotts Summer Crabgrass Control	DSMA
538–169	Scotts Spot Grass and Weed Control	Cacodylic acid
		Cacodylic acid, sodium salt
538–178	Scotts Post Emergent Crabgrass Control	MSMA
769–635	SMCP MSMA 70W Liquid MSMA Plus Surfactant	MSMA
769–636	SMCP MSMA 70 Liquid	MSMA
769–637	SMCP MSMA 6.66	MSMA
769–664	X-CEL Veg Kil	Cacodylic acid
		Cacodylic acid, sodium salt
769–705	SMCP MSMA HC 8 Liquid High Concentrate	MSMA
769–916	Science Grass & Weed Top-Killer	Cacodylic acid
		Cacodylic acid, sodium salt
769–975	Liquid Edger Herbicide	Cacodylic acid
		Cacodylic acid, sodium salt
869–175	Green Light Liquid Edger	Cacodylic acid
		Cacodylic acid, sodium salt
869–243	Green Light MSMA Crabgrass Killer 2	MSMA
2217–229	Selective Crabgrass Killer Contains DSMA	DSMA
2217–434	Crabgrass Killer	DSMA
2217–512	Nutgrass Killer	MSMA
2217–513	Crabgrass Killer	MSMA
2217–630	Gordon's Crabgrass and Nutgrass Killer	MSMA
2217–808	EH 795 Residential Herbicide	MSMA
		2,4-D dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-metyoxy-, compd with N-methylmetharamine (1:1)

TABLE 1.—ORGANIC ARSENICAL PRODUCT CANCELLATIONS—Continued

Registration Number	Product Name	Chemical Name
		Propanoic acid 2-(4-chloro-2-methylphenoxy)-3, (R) compd with N-methylmetharamine (1:1)
2217–815	EH 1335 Herbicide	MSMA
		2,4-D dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmetharamine (1:1)
		Propanoic acid 2-(4-chloro-2-methylphenoxy)-, (R) compd with N-methylmetharamine (1:1)
2217–830	EH 1378 Herbicide	MSMA
		2–,4-D dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmetharamine (1:1)
		Propanoic acid 2-(4-chloro-2-methylphenoxy)-, (R) compd with N-methylmetharamine (1:1)
5481–67	Alco Ho No Mo Liquid	Cacodylic acid
		Cacodylic acid, sodium salt
5481–227	DSMA Liquid Plus Surfactant	DSMA
5481–228	MSMA 40 Plus Surfactant	MSMA
5481–229	MSMA 60 Plus Surfactant	MSMA
5481–230	MSMA 66 Concentrate	MSMA
5481–231	MSMA 80 Concentrate	MSMA
5887–172	Improved Crabgrass Killer	MSMA
5905–67	MSMA Arsonate Liquid	MSMA
5905–GA-82-0011	MSMA Arsonate Liquid	MSMA
7401–23	Ferti-Lome Crabgrass and Dallis Grass Killer	MSMA
7401–246	Hi-Yield Super Decimate+Surfactant	MSMA
7401–366	Ferti-Lome Improved Bermuda Grass Killer	MSMA
		Cacodylic acid, sodium salt
8660–48	Crabgrass Killer	DSMA
8660–63	Clean-Up Herbicide	Cacodylic acid
		Cacodylic acid, sodium salt
8660–120	Vertagreen Crabgrass & Weed Killer	MSMA
8660–121	Greenup Nutgrass & Chickweed Killer	MSMA
9779–86	Riverside 612 Herbicide	MSMA
9779–96	Riverside 120 Herbicide	MSMA
9779–128	DSMA Herbicide	DSMA
9779–155	Riverside 145 Herbicide	MSMA
9779–170	Riverside MSMA 4	MSMA
9779–174	Riverside DSMA Liquid Plus Surfactant	DSMA

TABLE 1.—ORGANIC ARSENICAL PRODUCT CANCELLATIONS—Continued

Registration Number	Product Name	Chemical Name
9779–317	Prometryne+MSMA	MSMA
		Prometryn
10088–74	Lawn and Turf Weed Control	MSMA
19713–45	Drexel DSMA Liquid	DSMA
19713–113	Drexel DSMA 81P	DSMA
19713–117	Drexel Kack Herbicide	Cacodylic acid
		Cacodylic acid, sodium salt
19713–141	Drexel Ezy-Pickin Cotton Defoliant	Cacodylic acid
		Cacodylic acid, sodium salt
19713–153	Kack Plus MSMA Herbicide	MSMA
		Cacodylic acid
		Cacodylic acid, sodium salt
19713–162	MSMA 6 Tree Killer	MSMA
19713–276	IDA, INC. DSMA Slurry	DSMA
19713–311	Pearson's Easy- Edger and Cleaner	Cacodylic acid
		Cacodylic acid, sodium salt
19713–530	Drexel DSMA 81 Dry Powder	DSMA
19713–532	DSMA Slurry	DSMA
19713–533	Super Dal-E-Rad Calar	CAMA
19713–534	APC Holdings DSMA Liquid	DSMA
19713–535	APC Holdings DSMA Liquid 4	DSMA
28293–234	Unicorn Liquid Edger	Cacodylic acid
		Cacodylic acid, sodium salt
28293–361	Unicorn Weed Edger	Cacodylic acid
		Cacodylic acid, sodium salt
33955–510	Acme Weed Killer Nonselective Herbicide for General Weed Control	Cacodylic acid
		Cacodylic acid, sodium salt
33955–553	Acme Ready-To Use Weed & Grass Killer	Cacodylic acid
		Cacodylic acid, sodium salt
42519–4	Cacodylate 3.25	Cacodylic acid
		Cacodylic acid, sodium salt
42519–8	Sodium Cacodylate Solution	Cacodylic acid
		Cacodylic acid, sodium salt
42519–10	Leaf-All	Cacodylic acid
		Cacodylic acid, sodium salt
46515–1	Liquid Fence & Grass Edger	Cacodylic acid

TABLE 1.—ORGANIC ARSENICAL PRODUCT CANCELLATIONS—Continued

Registration Number	Product Name	Chemical Name
		Cacodylic acid, sodium salt
46515–12	Super K-Gro Ready-to-Use Crabgrass Killer	CAMA
59144–20	Liquid Edger Ready-to-Use	Cacodylic acid
		Cacodylic acid, sodium salt
61483–19	DSMA Liquid	DSMA
61483–20	Super Arsonate	MSMA
61483–25	Ansar 529 HC Herbicide	MSMA
61483–40	DSMA 4	DSMA
72155–1	Herbicide 3D RTU	MSMA
		2,4-D dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmetharamine (1:1)
		Propanoic acid 2-(4-chloro-2-methylphenoxy)-, (R) compd with N-methylmetharamine (1:1)
72155–3	Lawn Herbicide TN Concentrate	MSMA
		2,4-D dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmetharamine (1:1)
		Propanoic acid 2-(4-chloro-2-methylphenoxy)-, (R) compd with N-methylmetharamine (1:1)
72155–5	Lawn Herbicide 3D Concentrate	MSMA
		2,4-D dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmetharamine (1:1)
		Propanoic acid 2-(4-chloro-2-methylphenoxy)-, (R) compd with N-methylmetharamine (1:1)
72155–6	Lawn Herbicide 3D-40 Concentrate	MSMA
		2,4-D dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmetharamine (1:1)
		Propanoic acid 2-(4-chloro-2-methylphenoxy)-, (R) compd with N-methylmetharamine (1:1)

TABLE 2.—ORGANIC ARSENICAL PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration Number	Product Name	Chemical name
2217–709	Quadmec Turf Herbicide	MSMA
		2,4-D dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-methoxy-, compd withN N-methyl metharamine (1:1)
		Propanoic acid 2-(4-chloro-2-ethylphenoxy)-, (R) compd withN N-methyl metharamine (1:1)

TABLE 2.—ORGANIC ARSENICAL PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT—Continued

Registration Number	Product Name	Chemical name
2217–797	EH 1143 Herbicide	MSMA
		MCPA, dimethylamine salt
		Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmetharamine (1:1)
		Propanoic acid 2-(4-chloro-2-ethylphenoxy)-, (R) compd with N-methyl metharamine (1:1)
5905–66	MSMA Plus	MSMA
5905–162	Helena Brand MSMA High Concentrate	MSMA
5905–164	MSMA Plus HC	MSMA
9779–133	Riverside 120 Herbicide	MSMA
19713–40	Drexar 530	MSMA
19713–41	Drexel MSMA 6.6	MSMA
19713–42	MSMA 6 Plus	MSMA
19713–151	Drexel MSMA 8	MSMA
19713–267	IDA, Inc. MSMA 4 Plus	MSMA
19713–269	IDA, Inc. MSMA 6.6	MSMA
19713–278	IDA, Inc. MSMA 6 Plus	MSMA
19713–528	Diumate	MSMA
		Diuron
19713–529	Drexel MSMA 600 Herbicide	MSMA
19713–531	Drexel MSMA 660	MSMA
19713–550	Drexel MSMA 120	MSMA
42519–1	Target 6.6	MSMA
42519–3	Target 5 Plus	MSMA
42750–28	Weed Hoe 120	MSMA
42750–29	Weed Hoe 108	MSMA
61483–13	Daconate	MSMA
61483–14	Daconate 6	MSMA
61483–15	Bueno-6	MSMA
61483–17	Daconate Super Brand	MSMA
61483–18	Bueno	MSMA
62719–339	MSMA 6.6	MSMA
62719–340	MSMA Plus S	MSMA
62719–343	MSMA 51%	MSMA

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number.

TABLE 3.—REGISTRANTS OF CANCELLED AND AMENDED ORGANIC ARSENICAL PRODUCTS

EPA Company no.	Company Name and Address
239	The Scotts Co., d/b/a/ The Ortho Group P.O. Box 190 Marysville, OH 43040
538	Scotts Co., The, 14111 Scottslawn Rd Marysville, OH 43041
769	Value Gardens Supply, LLC d/b/a/ Value Garden Supply P.O. Box 585 Saint Joseph, MO 64502
869	Valent GI Corp., c/o Valent USA Corp., Agent For: Green Light Co. 1600 Riviera Ave. Suite 200 Walnut Creek, CA 94596
2217	PBI/Gordon Corp. P.O. Box 014090 Kansas City, MO 64101–0090
5481	Amvac Chemical Corp., d/b/a/ Amvac, 4695 Macarthur Ct. Suite 1250 Newport Beach, CA 92660–1706
5887	Value Gardens Supply, LLC d/b/a/ Value Garden Supply P.O. Box 585 Saint Joseph, MO 64502
5905	Helena Chenical Co. 7664 Moore Rd. Memphis, TN 38120
7401	Mandava Associates, LLC, Agent for: Voluntary Purchasing Groups, Inc. N. Dallas Pkwy., Suite 200 Plano, TX 75024
8660	United Industries Corp., d/b/a Sylorr Plant Corp. P.O. Box 142642 St. Louis, MO 63114–0642
9779	Winfield Solutions, LLC P.O. Box 64589 St. Paul, MN 55164–0589
10088	Athea Laboratories Inc. P.O. Box 240014 Milwaukee, WI 53224
19713	Drexel Chemical Co. P.O. Box 13327 Memphis, TN 38113–0327
28293	Phaeton Corp., d/b/a/ Unicorn Laboratories P.O. Box 290 Madison, GA 30650
33955	PBI/Gordon Corp. P.O. Box 014090 Kansas City, MO 64101–0090
42519	Luxemborg-Pamol, Inc. 5100 Poplar Ave. Suite 2700 Memphis, TN 38137
42750	Albaugh Inc. 1525 NE 36th Street Ankeny, IA 50021
46515	Celex, Division of United Industries Corp. P.O. Box 142642 St. Louis, MO 63114–0642

TABLE 3.—REGISTRANTS OF CANCELLED AND AMENDED ORGANIC ARSENICAL PRODUCTS—Continued

EPA Company no.	Company Name and Address
59144	RegWest Company, LLC, Agent for: Gro Tec, Inc. 30856 Rocky Rd. Greely, CO 80631–9375
61483	KMG-Bernuth, Inc. 9555 W. Sam Houston Pkwy South, Suite 600 Houston, TX 77099
62719	Dow Agrosciences LLC 9330 Zionsville Rd 308/2e Indianapolis, IN 46268–1054
72155	Bayer Advanced, P.O. Box 12014 2 TW Alexander Dr. Research Triangle Park, NC 27709

III. Summary of Public Comments Received and Agency Response to Comments

Comments were received on the dates for disposition of existing stocks of products containing the organic arsenicals. Based on these comments, some of the dates have been amended.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellations and amendments to terminate uses of organic arsenical registrations identified in Tables 1 and 2 of Unit II. Accordingly, the Agency orders that the organic arsenical product registrations identified in Tables 1 and 2 of Unit II. are hereby canceled and amended to terminate the affected uses. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit II. in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation order issued in this notice includes the following existing stocks provisions.

After December 31, 2009, registrants are prohibited from selling or distributing existing stocks of products containing MSMA labeled for all uses, except cotton, sod farms, golf courses, and highway rights-of-way. Also, after December 31, 2009 registrants are prohibited from selling or distributing existing stocks of products containing DSMA, CAMA, cacodylic acid and its sodium salt.

After December 31, 2010, persons other than registrants are prohibited from selling or distributing existing stocks of products containing MSMA labeled for all uses, except cotton, sod farms, golf courses, and highway rights-of-way, and products containing DSMA, CAMA, and/or cacodylic acid and its sodium salt.

After December 31, 2010, existing stocks of products containing MSMA labeled for all uses, except cotton, sod farms, golf courses, and highway rights-of-way and products containing DSMA, CAMA, cacodylic acid and its sodium salt, already in the hands of users can be used legally until they are exhausted, provided that such use complies with the EPA-approved label and labeling of the affected product.

After December 31, 2012, registrants are prohibited from selling or distributing existing stocks of products containing MSMA labeled for use on sod farms, golf courses, and highway rights-of-way.

After June 30, 2013, persons other than registrants are prohibited from selling or distributing existing stocks of products containing MSMA labeled for use on sod farms, golf courses, and highway rights-of-way. After December 31, 2013, use of products containing MSMA labeled for all uses, except cotton, is prohibited.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 21, 2009.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

FR Doc. E9–23319 Filed 9–29–09; 8:45 am]

BILLING CODE6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0955; FRL–8438–6]

Rodenticides; Product Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellation of registrations, voluntarily requested by the registrants and accepted by the Agency, of certain rodenticide products containing the pesticides bromadiolone, bromethalin, cholecalciferol, diphacinone (and its sodium salt), warfarin (and its sodium salt), and zinc phosphide, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a December 24, 2008 **Federal Register** Notice of Receipt of Requests from several registrants to voluntarily cancel certain bromadiolone, bromethalin, cholecalciferol, diphacinone (and its sodium salt), warfarin (and its sodium salt), and zinc phosphide product registrations. These are not the last bromadiolone, bromethalin, cholecalciferol, diphacinone (and its

sodium salt), warfarin (and its sodium salt), and zinc phosphide products registered for use in the United States. In the December 24, 2008 notice, EPA indicated that it would issue an order cancelling the products unless the Agency received substantive comments within the 180–day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests within this period. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the bromadiolone, bromethalin, cholecalciferol, diphacinone (and its sodium salt), warfarin (and its sodium salt), and zinc phosphide products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective September 30, 2009.

FOR FURTHER INFORMATION CONTACT: Rusty Wasem, Pesticide Re-evaluation Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–305–6979; fax number: 703–308–7070; e-mail address: *wasem.russell@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0955. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is 703–305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Action is the Agency Taking?

This notice announces the cancellation, as requested by registrants, of certain end-use and manufacturing-use rodenticide products registered under section 3 of FIFRA. These registrations are listed by registration number in Table 1 of this unit.

TABLE 1.—RODENTICIDE PRODUCT CANCELLATIONS

EPA Registration Number	Product Name
Cholecalciferol (PC Code 202901)	
3240–28	Rampage Mouse Seed
3240–42	Rampage Rat & Mouse Bait
12455-57	Quintox Mouse Seed
Bromadiolone (PC Code 112001)	
12455–68	Contrac Mouse Bait Station
12455–103	Contrac Bait Trays
12455–104	Contract Mouse Control Kit
Bromethalin (PC Code 112802)	
12455–100	Fastrac Mouse Seed Place Pac
47629–10	Bromethalin Manufacturing Concentrate
Diphacinone (PC Code 067701)	
3487–26	Eagles-14 Diphacinone Rat Bait
11885–12	Master Mix Blue Death-D Rat & Mouse Bait
11885–15	Master Mix Blue Death-D Rat & Mouse Hide-A-Pack
12455–67	Ditrac Mouse Bait Station
Diphacinone, Sodium Salt (PC Code 067705)	
3240–17	Motomco Water Soluble Diphacinone Rodenticide Concentrate Kills Rats & Mice
Warfarin (PC Code 086002)	
3487–19	Eagles-7 Rat Bait
5887–51	Black Leaf Warf Pellets
5887–98	Black Leaf Warf Pellets Mouse Killer
12455–15	Warfarin Rat and Mouse Bait
62577–7	Echols Mouse & Rat Pellets
72500–7	Kaput Mouse Blocks
Warfarin, Sodium Salt (PC Code 086003)	
12455–22	Liqua-Tox Liquid Concentrate
Zinc Phosphide (PC Code 088601)	
12455–59	ZP Rodent Bait Place Pac
12455–85	Mole and Gopher Bait

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in ascending order sequence by EPA company number.

TABLE 2.—REGISTRANTS OF CANCELLED RODENTICIDE PRODUCTS

EPA Company Number	Company Name and Address
3240	Motomco Ltd. 3699 Kinsman Blvd. Madison, WI 53704
3487	Bacon Products Corp. P.O. Box 22187 Chattanooga, TN 37422
5887	Value Gardens Supply LLC 9100 W. Bloomington Fwy. Ste. 113 Bloomington, MN 55431

TABLE 2.—REGISTRANTS OF CANCELLED RODENTICIDE PRODUCTS—Continued

EPA Company Number	Company Name and Address
11185	ADM Alliance Nutrition, Inc. P.O. Box C1 Quincy, IL 62305
12455	Bell Laboratories 3699 Kinsman Blvd. Madison, WI 53704
47629	Woodstream Corp. 69 N. Locust St. P.O. Box 324 Lititz, PA 17543
62577	Kittrich Corporation 4940 Top Line Dr. Dallas, TX 75247
72500	Scimetrics Ltd. Corp. c/o Regwest Co. LLC 30856 Rocky Rd. Greeley, CO 80631

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the December 24, 2008 **Federal Register** notice (73 FR 79104) (FRL–8394–5) announcing the Agency's receipt of the requests for voluntary cancellations of certain rodenticide products.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellations of rodenticide registrations identified in Table 1. Accordingly, the Agency orders that the rodenticide product registrations identified in Table 1 are hereby cancelled effective June 4, 2011. Any distribution, sale, or use of the cancelled products inconsistent with the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation order issued in this notice includes the following existing stocks provisions.

The cancellation of products identified in Table 1 is effective June 4, 2011. The registrants of these products may continue to produce, sell and distribute the rodenticide products identified in Table 1 until the cancellation date of June 4, 2011. After June 4, 2011, registrants may no longer distribute or sell new or existing stocks of products listed in Table 1. After June 4, 2011, persons other than the registrants may distribute, sell or use existing stocks of the products listed in Table 1 until such existing stocks are depleted.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 18, 2009.

Richard P. Keigwin, Jr.

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. E9–23452 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0609; FRL–8433–3]

Notice of Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Agency's receipt of an initial filing of a pesticide petition proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before October 30, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0609 and the pesticide petition number (PP) 9F7561, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0609 and the pesticide petition number (PP) 9F7561. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket

materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address: *mendelsohn.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have a typical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petition described in this notice contains data or information prescribed in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this notice, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available on-line at *http://www.regulations.gov*.

As specified in FFDCA section 408(d)(3), (21 U.S.C. 346a(d)(3)), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

New Tolerance Exemption

PP 9F7561. EPA–HQ–OPP–2009–0609. Syngenta Seeds Inc., P.O. Box 12257, Research Triangle Park, NC 27709, proposes to establish a temporary exemption from the requirement of a tolerance for residues of the *Bacillus thuringiensis* eCry3.1Ab protein, when used as a plant-incorporated protectant, in or on the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop. The petitioner believes no analytical method is needed because a temporary exemption from the requirement of a tolerance is being sought.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 22, 2009.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–23451 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0646; FRL–8438–8]

Receipt of Application; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is making available for comment an amended registration application submitted by Valent U.S.A. Corporation requesting the addition of multiple commodities onto the clothianidin technical and three end-use labels. Clothianidin Technical Insecticide is currently registered for formulation into end-use products labeled with terrestrial food, turf and ornamental, outdoor residential and non-residential uses. EPA is providing public notice of this amended registration application and an opportunity for the public to comment on the application.

DATES: Comments must be received on or before October 30, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0646, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington,VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0646. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kable Bo Davis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0415; e-mail address: davis.kable@*epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to various environmental groups, farmers, state regulatory partners, other interested Federal agencies, members of the public interested in the sale, distribution, or use of pesticides, and other pesticide registrants and pesticide users. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the

development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

EPA is making available for comment an amended registration application requesting the addition of multiple commodities onto the clothianidin technical (EPA Registration Number 10308-32) and three end-use (59639-150, 59639-151 and 59639-152) labels. The Agency will evaluate all comments received during the comment period. The application would, if accepted, allow the use of clothianidin on the following commodities: Cotton; soybean; leafy vegetables, crop group 4; Brassica (Cole) vegetables, crop group 5; fruiting vegetables, crop group 8; cucurbits, crop group 9 and tree nuts, crop group 14.

Following the review of the application, and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the amended registration application, and if issued, the conditions under which it is to be granted.

List of Subjects

Environmental protection, Receipt of Application.

Dated: September 18, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E9–23450 Filed 9–29–09; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0123; FRL–8792–8]

Methyl Bromide; Notice of Receipt of Requests to Amend Pesticide Registrations to Terminate Uses of Certain Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by the registrants to amend their registrations to terminate uses of certain products containing the pesticide methyl bromide. The requests would terminate post harvest methyl bromide use in or on alfalfa hay and cottonseed. The requests would terminate alfalfa hay and cottonseed uses from all methyl bromide products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests within this period. Upon acceptance of these requests, any sale, distribution, or use of products listed in this notice will be permitted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before October 30, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0123, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0123. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Susan Bartow, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0065; fax number: (703) 308–8090; e-mail address: *bartow.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since

others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information subject heading, **Federal Register** date and page number.

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii . Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background on the Receipt of Requests to Cancel and/or Amend Registrations to Delete Uses

This notice announces receipt by EPA of requests from registrants Great Lakes Chemical a Chemtura Company, Soil Chemicals Corporation doing business as Cardinal Professional Products, and ICL-IP America, Inc. to amend to terminate uses of 5785–11, Meth-O-Gas 100, 5785–41, Meth-O-Gas Q; 8536–15, Methyl Bromide 100, 8536–29, Methyl Bromide Quarantine Fumigant; 8622–16, Metabrom 100, and 8622–55, Metabrom Q product registrations. In letters dated June 29, 2009, June 30, 2009, and July 21, 2009, Great Lakes Chemical, a Chemtura Company, Soil Chemicals Corporation doing business as Cardinal Professional Products, and ICL-IP America, Inc. requested EPA to amend to terminate uses of pesticide product registrations identified in Table 1 of this notice. Specifically, the registrants request voluntary termination of post-harvest alfalfa hay and post-harvest cottonseed uses of methyl bromide. The registrants also request the following provisions for sale, distribution, and use of existing stocks: All sale or distribution by the registrant of existing stocks labeled for post-harvest alfalfa hay and post-harvest cottonseed uses is prohibited after October 31, 2009, unless that sale or distribution is solely for the purpose of facilitating disposal or export of the product.

Existing stocks labeled for post-harvest alfalfa hay and post-harvest cottonseed uses may be sold and distributed by persons other than the registrant until October 31, 2010.

Existing stocks labeled for post-harvest alfalfa hay and post harvest cottonseed uses may be used until all such stocks are exhausted, provided that such use complies with the EPA-approved label of the product.

Action on the registrants' requests would terminate alfalfa hay and cottonseed uses from all methyl bromide products registered for use in the United States.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from registrants to amend to terminate uses of methyl bromide product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The methyl bromide registrants have requested that EPA waive the 180–day comment period. EPA will provide a 30–day comment period on the proposed requests.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, or if the Agency determines that there are substantive comments that warrant further review of this request, an order will be issued amending the affected registrations.

TABLE 1.—METHYL BROMIDE PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration Number	Product Name	Company
5785-11	Meth-O-Gas 100	Great Lakes Chemical a Chemtura Company
5785–41	Meth-O-Gas Q	Great Lakes Chemical a Chemtura Company
8536–15	Methyl Bromide 100	Soil Chemicals Corporation doing business as Cardinal Professional Products
8536–29	Methyl Bromide Quarantine Fumigant	Soil Chemicals Corporation doing business as Cardinal Professional Products

TABLE 1.—METHYL BROMIDE PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT—Continued

Registration Number	Product Name	Company
8622–16	Metabrom 100	ICL-IP America, Inc.
8622–55	Metabrom Q	ICL-IP America, Inc.

Table 2 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1 of this unit.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS

EPA Company Number	Company Name and Address
5785	Great Lakes Chemical Corporation P.O. Box 2200 West Lafayette, IN 47996–2200
8536	Soil Chemicals Corporation (doing business as Cardinal Professional Products) P.O. Box 782 Hollister, CA 95024–9487
8622	ICL-IP America, Inc. 95 MacCorkle Avenue, S.W. South Charleston, WV 25303–1411

IV. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Procedures for Withdrawal of Request and Considerations for Reregistration of Methyl Bromide

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before October 30, 2009. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation order.

In any order issued in response to these requests for amendments to terminate uses, the Agency proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1 in Unit III:

All sale or distribution by the registrant of existing stocks labeled for post-harvest alfalfa hay and post-harvest cottonseed uses is prohibited after October 31, 2009, unless that sale or distribution is solely for the purpose of facilitating disposal or export of the product. Existing stocks labeled for post-harvest alfalfa hay and post-harvest cottonseed uses may be sold and distributed by persons other than the registrant until October 31, 2010. Existing stocks labeled for post-harvest alfalfa hay and post-harvest cottonseed uses may be used until all such stocks are exhausted, provided that such use complies with the EPA-approved label of the product.

If the request for use termination is granted, the Agency intends to publish the cancellation order in the **Federal Register**.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 22, 2009.

Richard P. Keigwin, Jr.

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. E9–23458 Filed 9–29–09; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0509; FRL–8435–1]

Pseudomonas syringae; Registration Review Final Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's final registration review decision for the pesticide *Pseudomonas syringae*, case 6007. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact*: Susanne Cerrelli, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8077; fax number: (703) 308–7026; e-mail address: *cerrelli.susanne@epa.gov.*

For general information on the registration review program, contact: Kevin Costello, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin @epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0509. Publicly available

docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. What Action is the Agency Taking?

In accordance with 40 CFR 155.58(c), this notice announces the availability of EPA's final registration review decision for *Pseudomonas syringae*, case 6007. The Registration Review Case for *Pseudomonas syringae* was composed of the following Active Ingredients:

Pseudomonas syringae strains ESC-10 and ESC-11 (PC Codes 006441 and 006451) are microbial pesticides that are used to control various molds and rots on harvested apples, cherries, pears, lemons, oranges, grapefruit, potatoes, and sweet potatoes.

Pseudomonas syringae strain 742RS (PC Code 006411) is a microbial pesticide that is used to prevent or reduce the growth of frost-forming bacteria on leaves and blossoms of almonds, apples, peaches, pears, tomatoes, cherries, potatoes and strawberries:

EPA has deleted the *Pseudomonas syringae* strain 742RS from the registration case pursuant to 40 CFR 155.42(b)(5) because all registrations of all products containing that active ingredient are cancelled. The registrant submitted a voluntary cancellation request for all products containing strain 742RS on April 7, 2008. These proposed voluntary cancellations were published (73 FR 53007, September 12, 2008 FRL–8380–7. No comments were received to support *Pseudomonas syringae* strain 742RS products, and they were cancelled on March 12, 2009.

The exemption from the requirement of a tolerance for residues of *Pseudomonas syringae* strain 742RS in or on all raw agricultural commodities when applied as a frost protection agent or biological control agent to growing agricultural crops in accordance with good agricultural practices that is listed in 40 CFR 180.1114 was reassessed on June 3, 2002 and it was determined that it meets the FQPA 1996 safety standard. The Agency will take separate action to propose revision of any affected exemptions from the requirement of a tolerance for *Pseudomonas syringae* strain 742RS that are not supported for import use only.

In accordance with 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has considered *Pseudomonas syringae* in light of the FIFRA standard for registration. The *Pseudomonas syringae* Final Decision document in the docket describes the Agency's rationale for issuing a registration review final decision for this pesticide.

In addition to the final registration review decision document, the registration review docket for *Pseudomonas syringae* also includes other relevant documents related to the registration review of this case. The proposed registration review decision was posted to the docket and the public was invited to submit any comments or new information. During the 60–day comment period, no public comments were received.

In accordance with 40 CFR 155.58(c), the registration review case docket for *Pseudomonas syringae* will remain open until all actions required in the final decision have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review*. Links to earlier documents related to the registration review of this pesticide are provided at: *http:www.epa.gov/oppsrrd1/registration_review/pseudomonas_syringae/index.htm.*

B. What is the Agency's Authority for Taking this Action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Pesticides and pests, Registration review.

Dated: September 17, 2009.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–23218 Filed 9–29–09; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0567; FRL–8435–3]

Pseudomonas fluorescens; Registration Review Final Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's final registration review decision for the pesticide *Pseudomonas fluorescens*, case 6006. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT: *For pesticide-specific information, contact*: Susanne Cerrelli, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8077; fax number: (703) 308–7026; e-mail address: *cerrelli.susanne@epa.gov*.

For general information on the registration review program, contact: Kevin Costello, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action

to a particular entity, consult the pesticide-specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0567. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. What Action is the Agency Taking?

In accordance with 40 CFR 155.58(c), this notice announces the availability of EPA's final registration review decision for *Pseudomonas fluorescens*, case 6006. The Registration Review Case for *Pseudomonas fluorescens* was composed of the following active ingredients:

Pseudomonas fluorescens strain A506 (PC Code 006438) is a microbial pesticide that is used to prevent or reduce the growth of frost-forming bacteria on leaves and blossoms of almonds, apples, peaches, pears, tomatoes, cherries, grapes potatoes and strawberries. When *Pseudomonas fluorescens* is used with antibiotic pesticide products in accordance with labeling instructions, it can help improve control of fire blight and discoloration on pear and apple crops; and bunch rot in grapes caused by *Acetobacter* bacteria when used in combination with *Aspergillus niger* and *Botrytis cinerea.*

Pseudomonas fluorescens strain 1629RS (PC Code 006439) is a microbial pesticide that is used to prevent or reduce the growth of frost-forming bacteria on leaves and blossoms of almonds, apples, peaches, pears, tomatoes, cherries, grapes potatoes and strawberries. EPA has deleted the *Pseudomonas fluorescens* strain 1629RS from the registration review case in accordance with 40 CFR 155.42(b)(5) because all registrations of products containing that active ingredient have been canceled. The registrant submitted a voluntary cancellation request for all products containing strain 1629RS on April 7, 2008. These proposed voluntary cancellations were published September 12, 2008, (73 FR 53007) (FRL–8380–7). No comments were received to support these *Pseudomonas fluorescens* strain 1629RS products, and they were canceled on March 12, 2009.

The exemption from the requirement of a tolerance for residues of *Pseudomonas fluorescens* strains A506 and 1629RS in or on all raw agricultural commodities when applied as a frost protection agent or biological control agent to growing agricultural crops in accordance with good agricultural practices that is listed in 40 CFR 180.1114 was reassessed on June 3, 2002, and it was determined that it meets the FQPA 1996 safety standard. The Agency will take separate actions to propose revision of any affected exemptions from the requirement of a tolerance for *Pseudomonas fluorescens* strain 1629RS that are not supported for import use only.

In accordance with 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has considered *Pseudomonas fluorescens* in light of the FIFRA standard for registration. The *Pseudomonas fluorescens* final decision document in the docket describes the Agency's rationale for issuing a registration review final decision for this pesticide.

In addition to the final registration review decision document, the registration review docket for *Pseudomonas fluorescens* also includes other relevant documents related to the registration review of this case. The proposed registration review decision was posted to the docket and the public was invited to submit any comments or new information. During the 60–day comment period, no public comments were received.

In accordance with 40 CFR 155.58(c), the registration review case docket for *Pseudomonas fluorescens* will remain open until all actions required in the final decision have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review*. Links to earlier documents related to the registration review of this pesticide are provided at: *http:www.epa.gov/oppsrrd1/registration_review/pseudomonas_fluorescens/index.htm.*

B. What is the Agency's Authority for Taking this Action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Registration review, Pesticides and pests, *Pseudomonas fluorescens*.

Dated: September 17, 2009.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–23217 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0095; FRL–8435–4]

Registration Review; New Biopesticides Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before November 30, 2009.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID numbers listed in the table in Unit III.A. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For pesticide-specific information contact*: The Regulatory Action Leader (RAL) identified in the table in Unit III.A. for the pesticide of interest.

For general information contact: Kevin Costello, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin @epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide-specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section

3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Docket ID Number	Chemical Review Manager or RAL, Telephone Number, E-mail Address
Verbenone & 4-Allyl Anisole (case 6031)	EPA–HQ–OPP–2009–0511	Raderrio Wilkins, (703) 308–1259, *wilkins.raderrio@epa.gov*
Wood oils and gums (case 3150)	EPA–HQ–OPP–2009–0258	Sadaf Shaukat, (703) 347–8670, *shaukat.sadaf@epa.gov*
Metarhizium anisopliae (case 6024)	EPA–HQ–OPP–2009–0510	Stuart Schussel, (703) 347–8659, *schussel.stuart@epa.gov*
Streptomyces griseoviridis (case 6066)	EPA–HQ–OPP–2009–0509	Anna Gross, (703) 305–5614, *gross.anna@epa.gov*

B. Docket Content

1. *Review dockets*. The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information*. More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm*. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.
- As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, *Metarhizium anisopliae,* Pesticides and pests, *Streptomyces griseoviridis,* Verbenone & 4-Allyl Anisole, Wood oils and gums.

Dated: September 21, 2009.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9–23453 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8963–1]

State Innovation Grant Program, Preliminary Notice for Proposals for 2010 Awards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency), National Center for Environmental Innovation (NCEI) is giving preliminary notice of its intention to solicit pre-proposals for a 2010 grant program to support innovation by State environmental agencies—the ''State Innovation Grant Program.'' In addition, EPA is asking each State environmental regulatory agency to designate a point of contact speaking on behalf of management (in addition to the Commissioner, Director, or Secretary) who will be the point of contact for further communication about the upcoming solicitation. If your point of contact from previous State Innovation Grant solicitations is to be your contact for this year's competition, there is no need to send that information again, as all previously designated points of contact will remain on our notification list for this year's competition. EPA anticipates publication of a Solicitation Announcement of Federal Funding Opportunity on the Federal government's grants opportunities Web site (*http://www.grants.gov*) to announce the availability of the next solicitation within 45 days.

DATES: State environmental regulatory agencies or agencies within States that have received a re-delegation of authority from the principal State environmental regulatory agency for one or more environmental permitting programs will have 30 days from the date of this pre-announcement notice in the **Federal Register** publication until October 30, 2009 to respond with point of contact information for the person within the agency (in addition to Commissioner, Director, or Secretary) who will be designated to receive future notices about the State Innovation Grant competition. We will automatically transmit notice of availability of the solicitation to people in State agencies identified for previous solicitations.

ADDRESSES: We encourage e-mail responses. Information should be submitted in writing via e-mail to: *innovation_state_grants@epa.gov;* or fax to ''State Innovation Grant Program'' at (202) 566–2220. If you have questions about responding to this notice, please contact EPA at this e-mail address or fax number, or you may call Sherri Walker at (202) 566–2186.

EPA will acknowledge all responses it receives to this notice. If you have not received an acknowledgment from EPA within three (3) days of the end of the notice period, please send an e-mail to: *innovation_state_grants@epa.gov* or call Sherri Walker at (202) 566–2186. Failure to do so may result in your information or comments not being received by the deadline. EPA will respond to all questions in writing, and all comments, questions and responses will be posted on the EPA State Innovation Grant Web site at *http://www.epa.gov/innovation/stategrants.* Potentially interested applicants are advised to monitor this Web site for information posted in response to questions received prior to and during the competition period.

SUPPLEMENTARY INFORMATION:

Background: Historically, the State Innovation Grant Program has been used to strengthen EPA's partnership with the States by supporting State innovation compatible with EPA's *Innovation Strategy http://www.epa.gov/innovation/pdf/strategy.pdf.* EPA wants to encourage states to build on previous experience (theirs and others) to undertake strategic innovation projects that promote larger-scale models with potential for broader use for ''next generation'' environmental protection that promise better environmental outcomes and other beneficial results. EPA is interested in funding projects that: (i) Go beyond a single facility experiment and provide change that is ''systems-oriented;'' (ii) provide better results from a program, process, or sector-wide innovation; and (iii) promote integrated (multi-media) environmental management with a high potential for transfer to other states, U.S. territories, and tribes.

Since 2002, EPA has sponsored seven State Innovation Grant Program competitions that asked for State project pre-proposals that supported the general theme of innovation in environmental permitting. We interpreted this theme broadly to include alternatives to permitting and the establishment of incentives to promote beyond compliance performance. To date, the program has supported projects primarily in three strategic focus areas: Application of the Environmental Results Programs (ERP) model (*http://www.epa.gov/permits/erp/index.htm*), the application of Environmental Management Systems (EMS) (*http://www.epa.gov/permits/ems/index.htm*) and other integration tools in permitting, and State performance-based environmental leadership programs similar to the National Environmental Performance Track (PT) Program. EPA's focus on a small number of topics within this general subject area effectively concentrated the limited resources available for greater strategic impact.

Forty awards to States have been made from the seven prior competitions and information on those projects can be found on the EPA Web site at, *http://www.epa.gov/innovation/stategrants/projects.htm.* These projects received collectively over eight million dollars in assistance. The assistance agreement awards for these projects were made to State environmental regulatory agencies and also to a commission within a State with a re-delegated authority to administer an environmental permitting program. Among the grant projects, including those with pending awards: twenty (20) were provided for development of Environmental Results Programs (ERP), eight (8) were related to Environmental Management Systems (EMS) and permitting, eight (8) were to enhance performance-based environmental leadership programs, two (2) were for watershed-based permitting, two (2) were for integrated permitting approaches, one (1) was for streamlining a storm water permit program using an innovation in information technology, applying geographic information systems (GIS) and a Web-based portal to a permit application and screening process, and one (1) was for development and implementation of a lean manufacturing and environmental technical assistance program to improve environmental and operational performance for industrial and commercial entities. Some of the projects funded fit into more than one category (*e.g.,* combination projects of ERP with PT, or ERP with EMS). For information on prior State Innovation Grant Program solicitations and awards, please see the EPA State Innovation Grants Web site at *http://www.epa.gov/innovation/stategrants.*

Agencies That Are Eligible to Compete for State Innovation Grants: The competition will be open to all agencies with a delegated authority from EPA for one or more permitting programs, or a re-delegated authority from a principal State environmental regulatory agency for a Federal environmental permitting program. Again this year we will consider these agencies for awards providing that the principal State environmental regulatory agency will be an active member of the project team for a

proposal from a re-delegation agency. Agencies are encouraged to partner with other governmental agencies or non-governmental organizations within the State (or outside of their State) that have complementary environmental mandates or symbiotic interests (*e.g.,* energy, agriculture, natural resources management, transportation, public health, sustainability). States are also encouraged to partner with other States and American Indian tribes to address cross-boundary issues, to encourage collaborative environmental partnering within industrial sectors or in certain topical areas (*e.g.,* agriculture), and to create networks for peer-mentoring. EPA regrets that because of the limitation in available funding it is not yet able to open this competition to American Indian tribal environmental agencies but we strongly encourage tribal agencies to join with adjacent States in project proposals.

Historically, EPA has supported State projects that involve innovation in environmental permitting (including alternatives to permitting) related to one of the EPA *Innovation Strategy's* priority environmental areas, or to other priority areas identified previously by individual States in collaboration with EPA in a formal State-EPA agreement such as a Performance Partnership Agreement (PPA). EPA anticipates continuing the theme of Innovation in Permitting in the 2010 competition. EPA is interested in innovative projects that focus on priority environmental issues, such as reducing greenhouse gases (*e.g.,* energy efficiency), reducing smog, restoring and maintaining water quality, and reducing the cost of water and wastewater infrastructure.

Projects will be much less likely to be funded through this State Innovation Grant if agency resources pertinent to the topic are already available through another EPA program. Project selections and awards will be subject to funding availability.

Request for Designation of a Primary Point of Contact: EPA asks that each State environmental agency or other agencies within a State with a delegated or re-delegated authority for Federal environmental regulatory programs designate a primary point-of-contact who we will add to the EPA notification list for further announcements about the State Innovation Grant Program. For point of contact information, please provide: name, title, department and agency, street or post office address, city, state, zip code, telephone, fax number, and e-mail address. If your point of contact from previous State Innovation Grant solicitations is to be your contact for this year's competition, there is no need to send that information again, as all previously designated points of contact will remain on our notification list for this year's competition. We are asking that any new name be submitted with the knowledge and approval of the highest levels of management within an Agency (Commissioner, Director, Secretary, or their deputies) within 30 days after publication of this notice in the **Federal Register**. Please submit this information to EPA by mail, fax, or e-mail prior to October 30, 2009 in the following manner.

By e-mail to: *Innovation_State_Grants@EPA.gov.*

By fax to: State Innovation Grant Program.

(202) 566–2220.

We encourage e-mail responses. If you have questions about responding to this notice, please contact EPA at this e-mail address or fax number, or you may call Sherri Walker at (202) 566–2186. For point-of-contact information, please provide: name, title, department and agency, mailing address (street or P.O. Box), city, state, zip code, telephone, fax number, and e-mail address. EPA will acknowledge all responses it receives to this notice.

Opportunity for Dialogue: Between now and the initiation of the competition with the release of the solicitation, communication between potential applicants and EPA is allowed. This communication may include helping potential applicants determine whether the applicant itself is eligible or if the scope of an applicant's potential project is suitable for funding, as well as responding to general requests for clarification of the notice. State agencies are encouraged to contact the appropriate EPA Regional innovation contact identified in the list below for general discussion about potential projects and their acceptability under an upcoming solicitation. To ensure an equal opportunity for all potential applicants, questions should be sent to NCEI. Responses to questions that come to us during the period between this pre-announcement and the release of the solicitation along with helpful resource materials will be posted on the State Innovation Grant Web site at *http://www.epa.gov/innovation/stategrants.* The contacts for the EPA Regions and the EPA HQ National Center for Environmental Innovation are as follows:

Anne Leiby or Josh Secunda, U.S. EPA Region 1, 1 Congress Street, Suite 1100, Boston, MA 02114–2023. (617) 918–1076 or (617) 918–1736. *leiby.anne@epa.gov* or *secunda.josh@epa.gov. States:* CT, MA, ME, NH, RI, VT .

Irene Boland, U.S. EPA Region 2, 290 Broadway, 26th Floor, New York, NY 10007–1866. (212) 637–3586. *boland.irene@epa.gov. States & Territories:* NJ, NY, PR, VI.

Michael Dunn, U.S. EPA Region 3, 1650 Arch Street (3EA40), Philadelphia, PA 19103. (215) 814–2712. *dunn.michael@epa.gov. States:* DC, DE, MD, PA, VA, WV.

LaToya Miller, U.S. EPA Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303. (404) 562–9885. *miller.latoya@epa.gov. States:* AL, FL, GA, KY, MS, NC, SC, TN.

Marilou Martin, U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604–3507. (312) 353–9660. *martin.marilou@epa.gov. States:* IL, IN, MI, MN, OH, WI.

Craig Weeks, U.S. EPA Region 6, Fountain Place, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202–2733. (214) 665–7505. *weeks.craig@epa.gov. States:* AR, LA, NM, OK, TX.

Ashley Betts or Richard Sumpter, U.S. EPA Region 7, 901 North 5th Street, Kansas City, KS 66101. (913) 551–7336 or (913) 551–7661. *Betts.ashley@epa.gov* or *sumpter.richard@epa.gov. States:* IA, KS, MO, NE.

Anthony Deloach, U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129. (303) 312–6070. *deloach.anthony@epa.gov. States:* CO, MT, ND, SD, UT, WY.

Kathy Meltzer, U.S. EPA Region 9, 75 Hawthorne Street (WTR–1), San Francisco, CA 94105. (415) 972–3714. *Meltzer.kathy@epa.gov. States and Territories:* AS, AZ, CA, GU, HI, NV.

Bill Glasser, U.S. EPA Region 10, 1200 Sixth Avenue (ENF–T), Seattle, WA 98101. (206) 553–7215. *glasser.william@epa.gov. States:* AK, ID, OR, WA.

Headquarters Office: Sherri Walker, U.S. EPA (MC 1807T), National Center for Environmental Innovation, State Innovation Grants Program, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. (202) 566–2186. (202) 566–2220 fax.

Dated: September 21, 2009.

David Widawsky,

Associate Office Director, National Center for Environmental Innovation.

[FR Doc. E9–23630 Filed 9–29–09; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Tuesday, September 29, 2009 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

OPEN AGENDA ITEM: PEFCO Secured Note Issues Resolutions.

PUBLIC PARTICIPATION: The meeting will be open to public participation for Item No. 1 only.

FURTHER INFORMATION: For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Tele. No. 202–565–3957).

Jonathan J. Cordone,

Senior Vice President and General Counsel.

[FR Doc. E9–23431 Filed 9–29–09; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL HOUSING FINANCE AGENCY

[No. 2009–N–12]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 60-day notice of submission of information collection for approval from the Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Agency (FHFA) is seeking public comments concerning a currently approved information collection known as ''Affordable Housing Program (AHP),'' which has been assigned control number 2590–0007 by the Office of Management and Budget (OMB). The FHFA intends to submit the information collection to OMB for review and approval of a three year extension of the control number, which is due to expire on December 31, 2009.

DATES: Interested persons may submit comments on or before November 30, 2009.

Comments: Submit comments to the FHFA using any of the following methods:

- *E-mail: regcomments@fhfa.gov.* Please include Proposed Collection; Comment Request: ''Affordable Housing Program (AHP),'' (No. 2009–N–12) in the subject line of the message.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552, Attention: Public Comments/Proposed Collection; Comment Request: ''Affordable Housing Program (AHP),'' (No. 2009–N–12).
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by e-mail to FHFA at *regcomments@fhfa.gov* to ensure timely receipt by the agency.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at 202–414–6924.

FOR FURTHER INFORMATION CONTACT: Charles E. McLean, Acting Manager, Division of Housing Mission and Goals, *Charles.Mclean@fhfa.gov,* 202–408–2537 or Deattra D. Perkins, Community Development Specialist, Division of Housing Mission and Goals, *Deattra.Perkins@fhfa.gov,* 202–408–2527 (not toll-free numbers). The telephone number for the telecommunications device for the deaf is 800–877–8339.

SUPPLEMENTARY INFORMATION:

A. Background

Section 10(j) of the Federal Home Loan Bank Act (Bank Act) requires each Bank to establish an affordable housing program, the purpose of which is to enable a Bank's members to finance homeownership by households with incomes at or below 80% of the area median income (low- or moderate-income households), and to finance the purchase, construction, or rehabilitation of rental projects in which at least 20% of the units will be occupied by and affordable for households earning 50% or less of the area median income (very low-income households). *See* 12 U.S.C. 1430(j)(1) and (2). The Bank Act requires each Bank to contribute 10% of its previous year's net earnings to its AHP annually, subject to a minimum annual combined contribution by the 12 Banks of $100 million. *See* 12 U.S.C. 1430(j)(5)(C).

The AHP regulation authorizes a Bank, in its discretion, to set aside a portion of its annual required AHP contribution to establish homeownership set-aside programs for the purpose of promoting homeownership for low- or moderate-income households. *See* 12 CFR 1291.6. Under the homeownership set-aside programs, a Bank may provide AHP direct subsidy (grants) to members to pay for down payment assistance, closing costs, and counseling costs in connection with a household's purchase of its primary residence, and for rehabilitation assistance in connection with a household's rehabilitation of an owner-occupied residence. *See* 12 CFR 1291.6(c)(4). Currently, a Bank may allocate up to the greater of $4.5 million or 35% of its annual required AHP contribution to homeownership set-aside programs in that year.

B. Need for and Use of the Information Collection

The Banks use AHP data collection to determine whether an AHP applicant satisfies the statutory and regulatory requirements to receive AHP subsidies. FHFA's use of the information is necessary to enable and to ensure that Bank funding decisions, and the use of the funds awarded, are consistent with statutory and regulatory requirements. The AHP information collection is found in the Data Reporting Manual (DRM). *See* Resolution Number 2006–13 (available electronically in the FOIA Reading Room: *http://www.fhfa.gov/Default.aspx?Page=256&List Year=2006&ListCategory=9#9√2006).*

The OMB number for the information collection is 2590–0007. The OMB clearance for the information collection expires on December 31, 2009. The likely respondents are institutions that are Bank members.

C. Burden Estimate

The FHFA analyzed the cost and hour burden for the seven facets of the AHP information collection—AHP applications, AHP modification requests, AHP monitoring agreements, AHP recapture agreements, homeownership set-aside program applications, verifications of statutory and regulatory compliance at the time of subsidy disbursement, and Bank Advisory Council reports and recommendations on AHP implementation plans. As explained in more detail below, the estimate for the total annual hour burden for applicant and member respondents for all seven

facets of the AHP information collection is 76,214 hours.

1. AHP Applications

The FHFA estimates a total annual average of 2,050 applications for AHP funding, with 1 response per applicant, and a 24 hour average processing time for each application. The estimate for the total annual hour burden for AHP applications is 49,200 hours (2,050 applicants × 1 application × 24 hours).

2. AHP Modification Requests

The FHFA estimates a total annual average of 150 modification requests, with 1 response per requestor, and a 2.5 hour average processing time for each request. The estimate for the total annual hour burden for AHP modification requests is 375 hours (150 requestors × 1 request × 2.5 hours).

3. AHP Monitoring Agreements

The FHFA estimates a total annual average of 825 AHP monitoring agreements, with 1 agreement per respondent. The estimate for the average hours to implement each AHP monitoring agreement and prepare and review required reports and certifications is 4.75 hours. The estimate for the total annual hour burden for AHP monitoring agreements is 3,919 hours (825 respondents × 1 agreement × 4.75 hours).

4. AHP Recapture Agreements

The FHFA estimates a total annual average of 360 AHP recapture agreements, with 1 agreement per respondent. The estimate for the average hours to prepare and implement an AHP recapture agreement is 2 hours. The estimate for the total annual hour burden for AHP recapture agreements is 720 hours (360 respondents × 1 agreement × 2 hours).

5. Homeownership Set-Aside Program Applications

The FHFA estimates a total annual average of 10,000 homeownership set-aside program applications, with 1 application per respondent, and a 2 hour average processing time for each application. The estimate for the total annual hour burden for homeownership set-aside program applications is 20,000 hours (10,000 respondents × 1 application × 2 hours).

6. Verification of Statutory and Regulatory Compliance Submissions

The FHFA estimates a total annual average of 2,000 submissions to verify compliance with statutory and regulatory requirements with 1 submission per respondent. The estimate for the average hours to review database records for completeness and accuracy prior to submission and validation is 1 hour. The estimate for the total annual hour burden for verification of compliance submissions is 2,000 hours (2,000 respondents × 1 submission × 1 hour).

7. Bank Advisory Council Reports and Recommendations on AHP Implementation Plan

Member and applicant respondents incur no costs because the Bank Advisory Councils prepare and the Banks and FHFA review Advisory Council reports and recommendations.

D. Comment Request

Written comments are requested on: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) The accuracy of the FHFA's estimates of the burdens of the collection of information; (3) Ways to enhance the quality, utility and clarity of the information collected; and (4) Ways to minimize the burden of the collection of information on applicants and housing associates, including through the use of automated collection techniques or other forms of information technology. Comments may be submitted in writing at the address listed above.

Dated: September 24, 2009.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. E9–23575 Filed 9–29–09; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 26, 2009.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. CapGen Capital Group LLC, and CapGen Capital Group LP, both of New York, New York; to acquire an additional 14.4 percent, for a total of 36.2 percent, of the voting shares of The BANKshares, Inc., and thereby indirectly acquire additional voting shares of BankFIRST, both of Winter Park, Florida.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Iowa Credit Union League, Clive, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Affiliates Management Company, Clive, Iowa, and thereby indirectly acquire CreditCard National Bank, Tucson, Arizona.

2. Affiliates Management Company, Clive, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of CrediCard National Bank, Tucson, Arizona.

Board of Governors of the Federal Reserve System, September 25, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–23561 Filed 9–29–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Tuesday, September 29, 2009. The business of the

Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, September 28, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–23667 Filed 9–28–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 010979–049.

Title: Caribbean Shipowners Association.

Parties: Bernuth Lines, Ltd.; CMA CGM, S.A.; Crowley Caribbean Services, LLC/Crowley Liner Services, Inc.; Seaboard Marine, Ltd.; Seafreight Line, Ltd.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher and Blackwell; 1850 M Street NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment removes Sea Star Line Caribbean, LLC as a party to the agreement.

Agreement No.: 011426–045.

Title: West Coast of South America Discussion Agreement.

Parties: A.P. Moller-Maersk A/S; APL Co. Pte Ltd.; Compania Chilena de Navigacion Interoceanica, S.A.; Compania Sud Americana de Vapores, S.A.; Frontier Liner Services, Inc.; Hamburg-Süd; King Ocean Services Limited, Inc.; Maruba S.C.A.; Mediterranean Shipping Company, SA; Seaboard Marine Ltd.; South Pacific Shipping Company, Ltd.; and Trinity Shipping Line.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment reflects Maersk's and MSC's participation in the Pacific Coast Section of the agreement.

Agreement No.: 011792–002.

Title: NYK/CSAV South America Space Charter Agreement.

Parties: Compania Sud Americana de Vapores S.A. and Nippon Yusen Kaisha.

Filing Party: Patricia M. O'Neill, Esq.; NYK Line (North America) Inc.; 300 Lighting Way, 5th Floor; Secaucus, NJ 07094.

Synopsis: The amendment would expand the scope to include ports in Venezuela, delete authority to agree on vessel features and schedules, delete authority to act as agent for each other in the agreement trade, and restate the agreement. Parties requested expedited review.

Agreement No.: 011882–003.

Title: Zim/COSCON Slot Charter Agreement.

Parties: Cosco Container Lines Co. Ltd. (COSCON) and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes references to COSCON's Mediterranean service, revises the space allocations of the parties on the other services, revises the definition of ''vessel'' to reflect that the parties can use space obtained from other carriers to fulfill their obligations under the agreement and restates the agreement.

Agreement No.: 011953–009.

Title: Florida Shipowners Group Agreement.

Parties: The member lines of the Caribbean Shipowners Association and the Florida-Bahamas Shipowners and Operators Association.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell, LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes Sea Star Caribbean Line, LLC and Atlantic Caribbean Line, Inc. from the underlying agreement parties.

Agreement No.: 012032–002.

Title: CMA CGM/MSC/Maersk Line North and Central China-US Pacific Coast Two-Loop Space Charter, Sailing and Cooperative Working Agreement.

Parties: A.P. Moller-Maersk A/S, CMA CGM S.A., and Mediterranean Shipping Company S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher and Blackwell LLP; 1850 M Street, NW, Suite 900; Washington, DC 20036.

Synopsis: The amendment would revise the vessel contributions and space allocations under the agreement.

Agreement No.: 012061–001.

Title: CMA CGM/Maersk Line Space Charter, Sailing and Cooperative Working Agreement Western Mediterranean-U.S. East Coast.

Parties: CMA CGM, S.A. and A.P. Moller-Maersk A/S.

Filing Party: Wayne R. Rohde, Esq.; Sher and Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment revises the number and size of vessels to be deployed under the agreement and changes the corresponding space allocations of the parties.

Agreement No.: 012082.

Title: HSDG/CCNI Space Charter Agreement.

Parties: Compania Chilena de Navigacion Interoceanica S.A. (''CCNI'') and Hamburg-Sud.

Filing Parties: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The agreement would authorize Hamburg Sud to charter space to CCNI in the trade between the U.S. Gulf Coast and ports on the Caribbean coasts of Mexico and Colombia. The Parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: September 25, 2009.

Tanga S. FitzGibbon,

Assistant Secretary.

[FR Doc. E9–23567 Filed 9–29–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the

Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

Avango Logistics LLC, 552 N York Road, Bensenville, IL 60106, Officers: Konstantin B. Selikhov, Member (Qualifying Individual), Rostislav Chagovets, Member.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

HYH International Cargo Services, Inc., dba H.Y.H. Container Line, 9107 NW 105th Way, Medley, FL 33178, Officer: Hans G. Hofmann, President (Qualifying Individual).

Ocean Star International, Inc., 10880 Wiles Road, Coral Springs, FL 33078, Officer: Joshua S. Morales, President (Qualifying Individual).

Container Loading Solutions International USA, LLC, 755 North Busse Highway, Ste. 217, Bensenville, IL 60106, Officer: Paul J. Gibbs, President (Qualifying Individual).

Fleur De Lis Worldwide LLC, 8302 Shady Ace Lane, Humble, TX 77346, Officer: Julie A. Turpin, President (Qualifying Individual).

Consolcargo USA Inc. dba CSC Consolidators, 10925 NW 27th Street, Ste. 102, Miami, FL 33172, Officers: Rocio D. Lugo, Director (Qualifying Individual), Peter Thomas, Vice President.

A Cargo Inc., 4634 E. Marginal Way S., Ste. C–120, Seattle, WA 98134–2328, Officers: Marcio Fanti, President, Patrick P. Policarpio, Vice President (Qualifying Individuals).

DNIPRO LLC, 645 West 1st Avenue, Roselle, NJ 07203, Officers: Yelena Cherepashenskaya, Manager (Qualifying Individual), Igor Pluta, President.

Target Logistic Services, Inc., 1400 Glenn Curtiss Street, Carson, CA 90746, Officer: Thomas F. Donahue, III, Vice President (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

EP Logistics, LLC, 7 Founders Blvd., Ste. E, El Paso, TX 79906, Officer: Octavio Saavedra, Member (Qualifying Individual).

Concord Express Cargo, Inc., 172–14 119th Avenue, Jamaica Queens, NY 11434, Officers: Christopher E. Okafor, President (Qualifying Individual), Margaret X. Burnes, Secretary.

September 25, 2009.

Tanga S. FitzGibbon,

Assistant Secretary.

[FR Doc. E9–23568 Filed 9–29–09; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology

HIT Policy Committee Advisory Meeting; Notice of Two-Day Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Policy Committee.

General Function of the Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The two-day meeting will be held on October 27 and October 28, 2009, from 10 a.m. to 5:15 p.m./Eastern Time on October 27th, and 8:30 a.m. to 3 p.m./Eastern Time on October 28th.

Location: The Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC. The hotel telephone number is 202–234–0700.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear presentations from the Meaningful Use, Certification/Adoption, and Information Exchange Workgroups. In addition, invited experts will provide testimony on the mapping of core Meaningful Use objectives and existing measures to medical specialties, small practices, and small hospitals. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posed on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 18, 2009. Oral comments from the pubic will be scheduled approximately 5 p.m./Eastern Time on October 27th, and 12:30 p.m./Eastern Time on October 28th. Time allotted for each public comment is limited to two minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: September 24, 2009.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E9–23460 Filed 9–29–09; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM); Availability of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) Test Method Evaluation Report: The Reduced Murine Local Lymph Node Assay, an Alternative Test Method Using Fewer Animals To Assess the Allergic Contact Dermatitis Potential of Chemicals and Products; Availability of ICCVAM Recommended Murine Local Lymph Node Assay Performance Standards; Notice of Transmittal to Federal Agencies of ICCVAM Test Method Recommendations for the Reduced Murine Local Lymph Node Assay, Updated Murine Local Lymph Node Assay Test Method Protocol, and Murine Local Lymph Node Assay Test Method Performance Standards

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH)

ACTION: Availability of ICCVAM Test Method Evaluation Report (TMER) and Recommended Test Method Performance Standards; Notice of Transmittal.

SUMMARY: NICEATM announces availability of the *ICCVAM Test Method Evaluation Report: The Reduced Murine Local Lymph Node Assay: An Alternative Test Method Using Fewer Animals to Assess the Allergic Contact Dermatitis Potential of Chemicals and Products* (NIH Publication 09–6439). The TMER provides ICCVAM's evaluation and recommendations for the reduced Murine Local Lymph Node Assay (rLLNA) test method as a reduction alternative that uses fewer animals compared to the traditional Murine Local Lymph Node Assay (LLNA) for assessing the potential of test substances to cause allergic contact dermatitis (ACD). The report includes ICCVAM's recommendations on (a) the usefulness and limitations of the rLLNA, (b) an updated ICCVAM LLNA test method protocol, which includes the procedures for conducting the rLLNA, (c) future studies to further characterize the usefulness and limitations of the rLLNA, and (d) rLLNA test method performance standards. The TMER includes the report of an international independent scientific peer review panel (hereafter, Panel) and the final rLLNA background review document (BRD). The BRD provides the data and analyses used to evaluate the current validation status of the rLLNA test method for assessing the ACD potential of chemicals and products. ICCVAM concluded that the scientific validity of the rLLNA has been adequately evaluated and that the performance of the rLLNA, when conducted in accordance with the ICCVAM-recommended LLNA test method protocol, is sufficient to distinguish between skin sensitizers and non-sensitizers. ICCVAM also concluded that the rLLNA would reduce animal use by 40% for each test compared to the traditional, multi-dose LLNA. Accordingly, ICCVAM recommends that the rLLNA test method should be routinely considered before conducting the traditional, multi-dose LLNA, and used where appropriate as the initial test to determine the potential of chemicals and products to produce ACD. For testing situations that require dose-response information, rLLNA-positive substances will need to be tested with the traditional multi-dose LLNA. This testing should be done using the updated ICCVAM-recommended test method protocol, which reduces animal use by 20% compared to the original ICCVAM-recommended test method protocol by decreasing the minimum number of animals per dose group from five to four.

NICEATM also announces availability of the *ICCVAM Recommended Performance Standards: Murine Local Lymph Node Assay* (NIH Publication 09–7357). The ICCVAM recommends that LLNA test method performance standards can be used to efficiently evaluate the validity of modified versions of the LLNA that are mechanistically and functionally similar to the traditional LLNA. The traditional LLNA test method is the reference test method used as the basis for establishing the LLNA performance standards. The performance standards specify the essential test method components that must be included in a modified LLNA in order to use the performance standards to evaluate the validity of the modified test method. The performance standards also specify a minimum list of reference substances to evaluate the accuracy and reliability of the modified test method, and the accuracy and reliability values that must be achieved in order for the modified test method to be considered equal to or better than the traditional LLNA.

Electronic copies of the ICCVAM rLLNA TMER and the report on ICCVAM-recommended LLNA performance standards are available from the NICEATM–ICCVAM Web site at *http://iccvam.niehs.nih.gov* or by contacting NICEATM (see **FOR FURTHER INFORMATION CONTACT**). The two reports have been forwarded to U.S. Federal agencies for regulatory and other acceptance considerations, where applicable. Responses will be posted on the NICEATM–ICCVAM website as they are received.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes, Director, NICEATM, NIEHS, P.O. Box 12233, Mail Stop: K2–16, Research Triangle Park, NC 27709, (telephone) 919–541–2384, (fax) 919–541–0947, (e-mail) *niceatm@niehs.nih.gov.* Courier address: NICEATM, NIEHS, Room 2034, 530 Davis Drive, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Consumer Product Safety Commission (CPSC) nominated several new versions and applications of the LLNA to ICCVAM in 2007 for evaluation of their scientific validity (*http://iccvam.niehs.nih.gov/methods/immunotox/llnadocs/CPSC_LLNA_nom.pdf*). The nomination requested that ICCVAM assess the validation status of: (1) the LLNA limit dose procedure (*i.e.,* the rLLNA); (2) three modified LLNA test method protocols that do not require the use of radioactive materials; (3) the use of the LLNA to test mixtures, aqueous solutions, and metals (applicability domain for the LLNA); and (4) the use of the LLNA to determine ACD potency categories for hazard classification. NICEATM published a **Federal Register** notice (72 FR 27815) requesting public comments on the appropriateness and relative priority of the CPSC-nominated LLNA activities, the development of test method performance standards for the LLNA, the nomination of scientists to serve on the Panel, and the submission of data from LLNA testing that related to the CPSC-nominated LLNA activities, as well as corresponding data from human and other animal studies. After considering public comments and comments from the Scientific Advisory Committee on Alternative Toxicological

Methods (SACATM), ICCVAM unanimously endorsed the nomination with a high priority. ICCVAM and NICEATM began evaluation activities and also initiated development of proposed test method performance standards for the LLNA since these had not previously been developed (*http://iccvam.niehs.nih.gov/methods/immunotox/immunotox.htm*). NICEATM and ICCVAM compiled a comprehensive draft BRD on the rLLNA test method and a draft test method performance standards document for the LLNA and released them for public comment in January 2008 (73 FR 1360).

NICEATM and ICCVAM convened the Panel at a meeting on March 4–6, 2008, to review the draft BRDs and evaluate the validation status of the proposed test methods and applications. The Panel also reviewed the extent that the information contained in the draft BRDs supported draft ICCVAM test method recommendations for test method uses and limitations, updated standardized test method protocols, and proposed future studies. The Panel reviewed the draft ICCVAM LLNA test method performance standards for their adequacy for assessing the accuracy and reliability of test method protocols that are based on similar scientific principles and that measure the same biological effect as the traditional LLNA. The Panel considered public comments made at the meeting as well as public comments submitted in advance of the meeting, before concluding their deliberations. The Panel's report was made available in May 2008 (73 FR 29136) for public comment. The draft ICCVAM BRDs, draft ICCVAM test method recommendations, draft ICCVAM LLNA test method performance standards, the Panel's report, and all public comments were made available to the SACATM for comment on June 18–19, 2008 (73 FR 25754).

ICCVAM considered the Panel's report, all public comments, and SACATM comments in finalizing its recommendations for the rLLNA, the updated LLNA test method protocol, and LLNA test method performance standards. ICCVAM has forwarded its test method recommendations to U.S. Federal agencies for consideration, in accordance with the ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3(e)(4)). Agency responses to the ICCVAM test method recommendations will be made available on the NICEATM–ICCVAM Web site as they are received.

Background Information on ICCVAM, NICEATM, and SACATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that use, generate, or disseminate toxicological information. ICCVAM conducts technical evaluations of new, revised, and alternative methods with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological test methods that more accurately assess the safety and hazards of chemicals and products and that refine, reduce, and replace animal use. The ICCVAM Authorization Act of 2000 established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM and provides scientific and operational support for ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of U.S. Federal agencies. Additional information about ICCVAM and NICEATM can be found on their Web site (*http://www.iccvam.niehs.nih.gov).*

SACATM was established January 9, 2002, and is composed of scientists from the public and private sectors (67 FR 11358). SACATM provides advice to the Director of the NIEHS, ICCVAM, and NICEATM regarding the statutorily-mandated duties of ICCVAM and activities of NICEATM. Additional information about SACATM, including the charter, roster, and records of past meetings, can be found at *http://ntp.niehs.nih.gov/go/167.*

Dated: September 22, 2009.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. E9–23534 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Renewal of Charter for the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Disease Prevention and Health Promotion.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the U.S. Department of Health and Human Services is hereby announcing that the charter for the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020 (Healthy People 2020 Advisory Committee; HPAC) has been renewed.

FOR FURTHER INFORMATION CONTACT: Emmeline Ochiai, Executive Secretary, Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020, Department of Health and Human Services, Office of Public Health and Science, Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Room LL–100, Rockville, MD 20852; Telephone: (240) 453–8259; Fax (240) 453–8281. Additional information is available on the Internet at *http://www.healthypeople.gov*.

SUPPLEMENTARY INFORMATION: Every ten years, through the Healthy People initiative, the U.S. Department of Health and Human Services (HHS) leverages scientific insights and lessons from the past decade, along with the new knowledge of current data, trends, and innovations to develop the next iteration of the national health promotion and disease prevention objectives. Healthy People provides science-based, ten-year national objectives for promoting health and preventing disease. Since 1980, Healthy People has set and monitored national health objectives to meet a broad range of health needs, encourage collaborations across sectors, guide individuals toward making informed health decisions, and measure the impact of our prevention and health promotion activities. *Healthy People 2020* will reflect assessment of major risks to health and wellness, changing public health priorities, and emerging technologies related to our nation's health preparedness and prevention.

The Committee will continue to provide advice and consultation to the Secretary of Health and Human Services for developing and implementing the next iteration of the national health promotion and disease prevention goals and objectives and provide recommendations for initiatives to occur during the implementation phase of the goals and objectives. HHS will use the recommendations to form the development of the national health promotion and disease prevention objectives for 2020 and the process for implementing the objectives. The intent is to develop and launch objectives designed to improve the health status and reduce health risks for Americans by the year 2020. Renewal of the HPAC charter provides authorization for the Committee to operate until September 4,

2011. A copy of the Committee charter can be obtained by contacting the Committee's Executive Secretary. A copy of the Committee charter also can be obtained by accessing the FACA database that is maintained by the Committee Management Secretariat under the General Services Administration. The Web site address for the FACA database is *http://fido.gov/facadatabase*.

Dated: September 23, 2009.

Penelope Slade-Sawyer,

RADM, USPHS, Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), Office of Disease Prevention and Health Promotion.

[FR Doc. E9–23539 Filed 9–29–09; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0434]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Humanitarian Device Exemption Holders, Institutional Review Boards, Clinical Investigators, and Food and Drug Administration Staff: Humanitarian Device Exemption Regulation: Questions and Answers; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 30, 2009.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–NEW and title Guidance for Humanitarian Device Exemption Holders, Institutional Review Boards, Clinical Investigators, and FDA Staff: Humanitarian Device Exemption Regulation: Questions and Answers; Availability. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley Jr., Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3793.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Humanitarian Device Exemption Holders, Institutional Review Boards, Clinical Investigators, and FDA Staff: Humanitarian Device Exemption Regulation: Questions and Answers—(OMB Control Number 0910–NEW)

Title III of the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Public Law 110–85) amended chapter V of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351 *et seq*.) by inserting section 515A, Pediatric Uses of Devices (21 U.S.C. 360e–1).

This new provision requires that new applications under section 520(m) of the act (21 U.S.C. 360j(m)) include both a description of any pediatric subpopulation that suffer from: (1) A disease or condition that the device is intended to treat, diagnose, or cure and (2) the number of affected pediatric patients.

Title III of FDAAA also amended section 520(m) of the act as follows:

Section 520(m)(6)(A)(ii) of the act provides that the Secretary of Health and Human Services will assign an annual distribution number (ADN) for devices indicated for use in a pediatric population or in a pediatric subpopulation. The ADN shall be based on the following information in a humanitarian device exemption (HDE) application: (1) The number of individuals affected by the disease or condition that such device is intended to treat, diagnose, or cure and of that number; (2) the number of individuals likely to use the device and (3) the number of devices reasonably necessary to to treat such individuals.

Section 520(m)(6)(A)(iii) of the act provides that an HDE holder immediately notify the agency if the number of devices distributed during any calendar year exceeds the ADN.

Section 520(m)(6)(C) of the act provides that an HDE holder may petition to modify the ADN if additional information on the number of individuals affected by the disease or condition arises.

In the **Federal Register** of August 5, 2008 (73 FR 45460), FDA published a 60-day notice requesting public comment on the information collection provisions. Seven comments were received in response to the 60-day notice. Of the seven comments received, six related to the guidance and the information collection requests. We received one comment that did not address the content of the guidance nor the information collection.

There were a number of comments received that clarified the reporting requirements for HDE holders and institutional review boards (IRBs). In response to these comments, FDA responded by referring to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR 803.50 have been approved under OMB control number 0910–0437 and the collections of information in part 814 (21 CFR part 814) have been approved under OMB control number 0910–0332. FDA received comments that sought clarification regarding how an IRB distinguishes between the use of a humanitarian use device (HUD) and the study of an HUD in a clinical investigation. FDA responded by providing additional background information related to the collection of safety and effectiveness information related to clinical investigation for HDE approved indications and referring to previously approved collections of information found in FDA regulations. This collection of information is approved under OMB control number 0910–0078.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Section of the Federal Food, Drug, and Cosmetic Act	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
515A(a)(2)	5	1	5	100	500

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

Section of the Federal Food, Drug, and Cosmetic Act	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
520(m)(6)(A)(ii)	3	1	3	50	150
520(m)(6)(A)(iii)	1	1	1	100	100
520(m)(6)(C)	5	1	5	100	500
Total					1,250

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based these estimates on the number of original HDE applications that the Center for Devices and Radiological Health (CDRH) received in the period between October 1, 2004, and September 30, 2007. During that time, CDRH received 16 original HDE applications or about 5 per year.

FDA estimates that for each year, CDRH will receive five HDE applications and that three of these applications will be indicated for pediatric use. One HDE holder will notify the agency that the number of devices distributed in the year has exceeded the ADN and five HDE holders will petition to have the ADN modified due to additional information on the number of individuals affected by the disease of condition.

The draft guidance refers also to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in part 814, subparts A, B, and C have been approved under OMB control number 0910–0231; the collection of information in 21 CFR parts 50 and 56 have been approved under OMB control number 0910–0130; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in part 814, subpart H have been approved under OMB control number 0910–0332; and the collection of information requirements in 21 CFR 10.30 have been approved under OMB control number 0910–0183.

Dated: September 23, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–23521 Filed 9–29–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Immortalized Transformed Lymphoblastoid Cell Lines From Patients with François-Neetens Mouchetée Fleck Corneal Dystrophy (CFD)

Description of Invention: Researchers at the National Eye Institute, NIH, have made available a set of immortalized transformed lymphoblastoid cell lines created from human T-lymphocytes obtained from patients with François-Neetens Mouchetée Fleck Corneal Dystrophy (CFD). The cells were transformed with defective Epstein-Barr virus using established methods.

CFD is a rare, autosomal dominant corneal dystrophy characterized by numerous small white flecks scattered in all layers of the stroma. CFD has been associated with mutations in the PIP5K3 protein, which is important for post-Golgi vesicle processing.

Applications:

• Useful in the study of proteins expressed by lymphocytes, including in some cases the protein encoded by the mutant gene KCNJ13.

• Useful as a renewable source of DNA for genetic studies related to CFD or the PIP5K3 protein.

Inventors: J. Fielding Hejtmancik and Xiaodong Jiao (NEI).

Relevant Publications:

1. S Li *et al.* Mutations in PIP5K3 are associated with François-Neetens mouchetée fleck corneal dystrophy. Am J Hum Genet. 2005 Jul;77(1):54–63.

2. X Jiao *et al.* Genetic linkage of Francois-Neetens fleck (mouchetée) corneal dystrophy to chromosome 2q35. Hum Genet. 2003 May; 112(5–6):593–599.

Patent Status: HHS Reference No. E–270–2009/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Status: Available for licensing under a biological material license.

Licensing Contact: Patrick P. McCue, PhD; 301–435–5560; *mccuepat@mail.nih.gov.*

Novel Chemoattractant-Based Toxins to Improve Vaccine Immune Responses for Cancer and Infectious Diseases

Description of Invention: Cancer is one of the leading causes of death in United States and it is estimated that there will be more than half a million deaths caused by cancer in 2009. A major drawback of the current chemotherapy-based therapeutics is the cytotoxic side-effects associated with them. Thus there is a dire need to develop new therapeutic strategies with fewer side-effects. Immunotherapy has taken a lead among the new therapeutic approaches. Enhancing the innate immune response of an individual has been a key approach for the treatment against different diseases such as cancer and infectious diseases.

This technology involves the generation of novel chemoattractant toxins that deplete the T regulatory cells (Treg) or other immunosuppressive or hyperactivated cells locally. Treg controls activation of immune responses by suppressing the induction of adaptive immune responses, particularly T cell responses. Immunosuppressive cells such as tumor infiltrating macrophages, regulatory T cells, regulatory B cells, or NKT and other cells down regulate antitumor immune responses. The chemoattractant toxins consist of a toxin moiety fused with a chemokine receptor ligand, such as chemokines and various chemoattractants, that enables specific targeting and delivery to the regulatory cells. This technology is advantageous over the more harmful antibodies and chemicals that are currently used for the systemic depletion of regulatory cells. The current technology can be used therapeutically in a variety of ways. They can be used together with vaccines to increase efficacy of the vaccine for the treatment of cancer, and can be used to locally deplete Treg, Bregs, or other immunosuppressive cells to induce cytolytic cell responses at the tumor site or to eliminate chronic infectious diseases such as HIV and tuberculosis.

Applications:

• New chemoattractant based toxins targeted towards Treg cells.

• New chemoattractant based toxins targeted towards immunosuppressive B cells, NKT and macrophages.

• New chemoattractant based toxins targeted towards local depletion of hyperactivated CD4 T cells to treat autoimmune diseases.

• Chemoattractant based toxins depleting Treg cells or other immunosuppressive cells causing enhanced vaccine immune responses.

• Novel immunotherapy by increasing vaccine efficacy against cancer and infectious diseases.

Development Status: The technology is currently in the pre-clinical stage of development.

Market:

• The technology platform involving novel chemo-attractant based toxins can be used to improve vaccine immune responses.

• The technology platform has an additional market in treating several other clinical problems such as autoimmune diseases.

Inventors: Arya Biragyn (NIA), Dolgor Bataar (NIA), *et al.*

Related Publications:

1. D Baatar, P Olkhanud, D Newton, K Sumitomo, A Biragyn. CCR4-expressing T cell tumors can be specifically controlled via delivery of toxins to chemokine receptors. J Immunol. 2007 Aug 1;179(3):1996–2004.

2. D Baatar, P Olkhanud, K Sumitomo, D Taub, R Gress, A Biragyn. Human peripheral blood T regulatory cells (Tregs), functionally primed CCR4+ Tregs and unprimed CCR4- Tregs, regulate effector T cells using FasL. J Immunol. 2007 Apr 15;178(8):4891–900.

3. M Coscia, A Biragyn. Cancer immunotherapy with chemoattractant peptides. Semin Cancer Biol. 2004 Jun; 14(3):209–218.

4. R Schiavo *et al.* Chemokine receptor targeting efficiently directs antigens to MHC class I pathways and elicits antigen-specific CD8+ T-cell responses. Blood 2006 Jun 15; 107(12):4597–4605.

Patent Status: U.S. Patent Application No. 11/992,880 filed 28 Mar 2008 (HHS Reference No. E–027–2005/0–US–06)

Licensing Status: Available for licensing.

Licensing Contact: Patrick P. McCue, PhD; 301–435–5560; *mccuepat@mail.nih.gov.*

Collaborative Research Opportunity: The Immunotherapeutics Unit, National Institute on Aging, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize Chemotoxin technology for clinical use or as a laboratory tool for depletion of cells. Please contact Nicole Darack, PhD at 301–435–3101 or *darackn@mail.nih.gov* for more information.

Novel Agents Exhibiting Cytotoxicity Against Human Tumor Cell Lines

Description of Invention: Researchers at the National Cancer Institute have developed novel agents that inhibit the growth of several human tumor cell lines. The new compounds are phenyl maleimides, some of which show cytotoxicity against human liver cancer cells in vitro in the low micromolar range.

Applications:

• Therapeutics for treating a broad range of cancers.

• Use as pharmacologic probes for specific biochemical pathways.

Advantages:

• Demonstrated selective inhibition for cancer cells vs. untransformed cells *in vitro* and *in vivo.*

• Potent growth inhibition of several human tumor cell lines.

Development Status: Pre-clinical stage of development.

Market: Cancer therapeutics.

Inventors: Christophr J. Michejda and Wei Yao (NCI) *et al.;* Terrence R. Burke Jr. (NCI).

Relevant Publication: S Kar, M Wang, W Yao, CJ Michejda, BI Carr. PM–20, a novel inhibitor of Cdc25A, induces extracellular signal-regulated kinase 1/2 phosphorylation and inhibits hepatocellular carcinoma growth in vitro and in vivo. Mol Cancer Ther. 2006 Jun; 5(6):1511–1519.

Patent Status: U.S. Patent No. 7,504,430 issued 17 Mar 2009 (HHS Reference No. E–110–2004/0–US–06).

Licensing Status: Available for licensing.

Licensing Contact: Patrick P. McCue, PhD; 301–435–5560; *mccuepat@mail.nih.gov.*

Dated: September 21, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–23590 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

Date: November 19, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John K. Hayes, PhD, Scientific Review Officer, 6707 Democracy Boulevard, Suite 959, Democracy Two, Bethesda, MD 20892, 301–451–3398, *hayesj@mail.nih.gov.*

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23611 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors for Basic Sciences National Cancer Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Basic Sciences National Cancer Institute.

Date: November 10, 2009.

Time: 9 a.m. to 2:15 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Florence E. Farber, PhD, Executive Secretary, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 2205, Bethesda, MD 20892, 301–496–7628, *ff6p@nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/bsc/bs/bs.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 25, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23588 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Microbiology and Infectious Diseases Biological Resource Repository.

Date: October 13, 2009.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817.

Contact Person: Lynn Rust, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–402–3938, *lr228v@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23617 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee; Allergy, Immunology & Transplantation Research Review Committee.

Date: October 15, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Chicago, 151 Wacker Drive, Chicago, IL 60601.

Contact Person: Katrin Eichelberg, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–496–0818, *keichelberg@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23615 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee.

Date: October 14, 2009.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Gary S. Madonna, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID, National Institutes of Health, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–496–3528, *gm12w@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; MIP V.

Date: November 2–3, 2009.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Eleazar Cohen, PhD, Scientific Review Officer, Division of Extramural Activites, NIAID/NIH/DHHS, 6700B Rockledge Drive, Room 3129, Bethesda, MD 20892, 301–435–3564, *ec17w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23614 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Superfund Basic Research and Training Program.

Date: October 27–29, 2009.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Durham Marriott Convention Center, 201 Foster Street, Durham, NC 27701.

Contact Person: Leroy Worth, PhD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P. O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; E–Learning for HAZMAT and Emergency Response.

Date: November 5, 2009.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Sally Eckert-Tilotta, PhD, Scientific Review Administrator, Nat. Institute of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446, *eckertt1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23612 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Partnerships for Development of Vaccines for Selected Pathogens.

Date: October 27–28, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Tracy A. Shahan, PhD, MBA, Scientific Review Officer, Scientific Review Program, NIH/NIAID/DHHS, Room 3121, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 451–2606, *tshahan@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23610 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute.

Date: November 9, 2009.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Brian E. Wojcik, PhD, Senior Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, 6116 Executive Boulevard, Room 2201, Bethesda, MD 20892, (301) 496–7628, *wojcikb@mail.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/bsc.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 25, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23603 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel.

Date: October 20–22, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Hotel Sacramento, 500 Leisure Lane, Sacramento, CA 95815.

Contact Person: Martha F. Matocha, PhD, Scientific Review Officer, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Rm. 1070, Bethesda, MD 20892. 301–435–0810. *matocham@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333; 93.702, ARRA Related Construction Awards, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23598 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Health, Behavior, and Context Subcommittee.

Date: October 22–23, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Michele C. Hindi-Alexander, PhD, Division of Scientific Review, National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Development, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20812–7510. (301) 435–8382. *hindialm@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23592 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; ''The Development of Memory from a Comparative Perspective''.

Date: October 5, 2009.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, 1515 Rhode Island Ave., NW., Washington, DC 20005.

Contact Person: Norman Chang, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23591 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Childhood Lead Poisoning Prevention (ACCLPP)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Dates and Times:

October 21, 2009, 8:30 a.m.–5 p.m.
October 22, 2009, 8:30 a.m.–12:30 p.m.

Place: Four Points by Sheraton, 1201 K Street, NW., Washington, DC 20005, 202–289–7600.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 125 people.

Purpose: The Committee provides advice and guidance to the Secretary; the Assistant Secretary for Health; and the Director, CDC, regarding new scientific knowledge and technological developments and their practical implications for childhood lead poisoning prevention efforts. The committee also reviews and reports regularly on childhood lead poisoning prevention practices and recommends improvements in national childhood lead poisoning prevention efforts.

Matters To Be Discussed: General discussions on the potential approaches to strengthen existing strategies to achieve the Healthy People 2010 goal of eliminating childhood lead poisoning.

—Update on international cooperation initiatives directed at lead poisoning issues.
—Update from Educational Interventions for Lead-Exposed Children Workgroup.
—Final update from Lead and Pregnancy Workgroup and formal vote on Guidelines for the Identification and Management of Lead Exposure in Pregnant and Lactating Women document.
—Update from Lead and Consumer Products Workgroup.
—Update on federal implementation measures related to the Consumer Product Safety Improvement Act of 2008 (CPSIA).
—Program updates from the CDC Lead Poisoning Prevention Branch and the District of Columbia Childhood Lead Poisoning Prevention Program.
—Update from Laboratory Workgroup.

Agenda items are subject to change as priorities dictate.

Opportunities will be provided during the meeting for oral comments. Depending on the time available and the number of requests, it may be necessary to limit the time of each presenter.

Contact Person for More Information: Claudine Johnson, Program OP Assistant, (Contractor, NAI) Lead Poisoning Prevention Branch, Division of Environmental Emergency Health Services, NCEH, CDC, 4770 Buford Hwy, NE., Mailstop F–60, Atlanta, GA 30341, telephone 770–488–3629, fax 770–488–3635.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: September 23, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–23554 Filed 9–29–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Chairpersons, Boards of Scientific Counselors for Institutes and Centers at the National Institutes of Health; Notice of Meeting

Notice is hereby given of the meeting scheduled by the Deputy Director for Intramural Research at the National Institutes of Health (NIH) with the Chairpersons of the Boards of Scientific Counselors. The Boards of Scientific Counselors are advisory groups to the Scientific Directors of the Intramural Research Programs at the NIH. This meeting will take place on October 2, 2009 from 10 a.m. to 2 p.m., at the NIH, 9000 Rockville Pike, Bethesda, MD, Building 1, Room 151. The meeting will include a discussion of policies and procedures that apply to the regular review of NIH intramural scientists and their research.

The meeting is open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Jackie Roberts at the Office of Intramural Research, NIH, Building 1, Room 160, telephone 301–496–1921, or FAX 301–402–4273, in advance of the meeting.

Dated: September 22, 2009.

Michael Gottesman,

Deputy Director for Intramural Research, National Institutes of Health.

[FR Doc. E9–23536 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Mentored Scientist Awards (K99's).

Date: October 20, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Holly K. Krull, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0280, *krullh@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Patient Oriented Research Career Enhancement Awards.

Date: October 29–30, 2009.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mandarin Oriental, 1330 Maryland Avenue, SW., Washington, DC 20024.

Contact Person: Mark Roltsch, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892–7924, 301–435–0287, *roltschm@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23619 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Pediatrics Subcommittee.

Date: October 21–22, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Legacy, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Rita Anand, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892. (301) 496–1487. *anandr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23618 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDCR Special Grants Review Committee, NIDCR Special Grants Review Committee: Review of F, K, and R03 Applications.

Date: October 15–16, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Chicago, 151 East Wacker Drive, Chicago, IL 60601.

Contact Person: Raj K Krishnaraju, PhD, MS, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., Rm 4AN 32J, Bethesda, MD 20892. 301–594–4864. *kkrishna@nidcr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review Conference Grant Applications.

Date: November 2, 2009.

Time: 3 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mary Kelly, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, NIH, 6701 Democracy Blvd., Room 672, MSC 4878, Bethesda, MD 20892–4878. 301–594–4809. *mary_kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23589 Filed 9–29–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis (ACET)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Dates

8:30 a.m.—5:30 p.m., October 27, 2009.
8:30 a.m.—2:30 p.m., October 28, 2009.

Place: CDC, 8 Corporate Square Boulevard, Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333, Telephone (404) 639–8317.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters To Be Discussed: Agenda items include issues pertaining to tuberculosis in urban setting; health policy makers; tuberculosis control in the U.S. affiliated pacific islands; Nepal technical instruction site visit; and other related tuberculosis issues. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, Coordinating Center for Infectious Diseases, Strategic Business Unit, 1600 Clifton Road, NE., Mailstop E–07, Atlanta, Georgia 30333, Telephone (404) 639–8317.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: September 22, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–23565 Filed 9–29–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service [System Number 09–17–0002]

Privacy Act of 1974; Report of Modified or Altered System; Indian Health Service Scholarship and Loan Repayment Programs

AGENCY: Department of Health and Human Services (HHS), Indian Health Service (IHS).

ACTION: Notice of a Modification or Alteration to a System of Records (SOR).

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), the IHS has amended and is publishing the proposed alteration of a SOR, ''Indian Health Service Scholarship and Loan Repayment Programs,'' System No. 09–17–0002. We propose to modify the SOR to reflect current program changes, statutory and implementation changes. Under the system name, we propose to clarify language under the ''Categories of individuals covered by the system'' section; to include statutory authorities for the grants program under the ''Authority for maintenance of the system'' section; to include the IHS Grants Program (Indians Into Nursing, Indians Into Medicine, and Indians Into Psychology) and the IHS Health Professions Support Branch in the ''Purposes'' section; various minor language edits to routine use number 4 for litigation as these records are not Health Insurance Portability and Accountability Act (HIPAA) protected records; add a new routine use number 20 to comply with Office of Management and Budget (OMB) (M)emorandum 07–16 *Safeguarding Against and Responding to the Breach of Personally Identifiable Information* of May 22, 2007 and the HHS Directive memoranda dated September 19, 2007 to incorporate Notification of Breach Routine Use language; and finally minor administrative and program edits to other sections of the SOR.

DATES: *Effective Dates:* The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, OMB on September 30, 2009. To ensure that all parties have adequate time in which to comment, the modified system of records, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless IHS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Mr. William Tibbitts, IHS Privacy Act Officer, Division of Regulatory Affairs, Office of Management Services, 801 Thompson Avenue, TMP, Suite 450, Rockville, MD 20852–1627; call non-toll free (301) 443–1116; send via facsimile to (301) 443–9879, or send your e-mail requests, comments, and return address to: *William.Tibbitts@ihs.gov*

FOR FURTHER INFORMATION CONTACT: RADM Robert E. Pittman, Director, Division of Health Professions Support, Office of Public Health Support, 801 Thompson Avenue, TMP, Suite 450A, Rockville, MD 20852–1627, Telephone (301) 443–2361.

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), this document sets forth the proposed alteration of a system of records maintained by the IHS. In addition to updating and making editorial corrections to improve the clarity of the system notice, this alteration requires the revisions of the Categories of Records, Purposes, Authority, Safeguard, Retention and Disposal, Notification and Access Procedures sections.

Dated: September 15, 2009.

Yvette Roubideaux,

Director, Indian Health Service.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES
09–17–0002

SYSTEM NAME:

Indian Health Service Scholarship and Loan Repayment Programs, HHS/IHS/OPHS/DHPS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Public Health Support (OPHS), Division of Health Professions Support (DHPS), Scholarship and Loan Repayment Branch(es) and Health Professions Support Branch, Indian Health Service, 12300 Twinbrook Parkway, Suite 450A, Rockville, MD 20852. Washington National Records Center, 4205 Suitland Road, Suitland, MD 20746–8001. Records are also located at the Indian Health Service (IHS) Area Offices. A list of the IHS Area Offices where individually identifiable data are currently located is

available upon request to the Policy-Coordinating Official(s) at IHS Headquarters East, 12300 Twinbrook Parkway, Suite 450A, Rockville, MD 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and recipients of benefits from the scholarship programs (Sections 103 and 104 of the Indian Health Care Improvement Act, as amended (IHCIA)), loan repayment program (Section 108 of the IHCIA; and grant programs (Section 112 Nursing Program; Section 114 Indians into Medicine; and Section 217 Indians into Psychology under the ICHIA), and recruitment programs administered by the IHS. The IHS scholarship program includes the Health Professions Pre-Graduate Scholarship Program for Indians, the Health Professions Preparatory Scholarship Program for Indians; and the Health Professions Scholarship Program for Indians. Also included are records of scholarship, loan repayment and grant recipients who are obligated to fulfill, are fulfilling, or have fulfilled their IHS service obligations as a result of receiving funds from these IHS programs, and individuals who have an expressed and/or obligated interest in employment in or an assignment to an IHS medical facility, Tribal medical/health care facility, Title V urban healthcare entity, or other facility described in sections 104, 108, 112 and 217 of the IHCIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains: Name, telephone number(s), work, school, home and/or mailing address; Social Security Number (SSN); IHS scholarship or IHS loan repayment application; associated forms; employment data; professional performance and credentialing history of licensed health professionals; preference for site selection; personal, professional, and demographic background information; progress reports (which include related data, correspondence, and professional performance information); payroll forms; lender's loan repayment confirmation forms; Form W–4 (for withholding Federal taxes on scholarship recipients monthly stipends); direct deposit forms (for monthly stipends for scholarship recipients and for annual loan repayment distribution among participants in the programs); deferment and placement data; and repayment/delinquent/default status information including medical documentation related to default/waiver proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 1613, including the Health Professions Compensatory Pre-professional and the Health Professions Pre-graduate Scholarships;

25 U.S.C. 1613a, Health Professions Scholarship;

25 U.S.C. 1616a, IHS Loan Repayment Program,

31 U.S.C. 7701, Requirement That Applicant Furnish Taxpayer Identifying Number; 42 U.S.C. 216(a), for PHS Commissioned Officers, and 5 U.S.C. 3301 for civil service employee, both of which authorize verification of an individual's suitability for employment; the grants program is codified at 25 U.S.C. 1616e. Nursing Program; 25 U.S.C. 1616g. Indians into Medicine Program; and 25 U.S.C. 1621p. American Indians into Psychology Program; Federal Records Act (44 U.S.C. 2901); Privacy Act of 1974, as amended (5 U.S.C. 552a); Department Regulation (5 U.S.C. 301); and 42 U.S.C. 254f, Assignment of Corps Personnel.

PURPOSE(S):

The purposes of this system of records are as follows:

1. *The IHS Scholarship Programs.*

(a) To select applicants for the IHS Scholarship Programs;

(b) To monitor scholarship related activities, such as payment tracking, deferment and/or postponement of service obligations owed, placement, completion, default, and debt collection through national credit company subscription(s);

(c) To select and match IHS scholarship recipients for qualified employment assignments with the following: IHS medical facilities, including but not limited to hospitals, health clinics and ambulatory stations; and any other programs authorized under 25 U.S.C. 1616a;

(d) To monitor services provided by these IHS scholarship recipient/participant/obligated health care professionals;

(e) To maintain records on and to verify individuals' credentials, educational background, prior and current performance history and data and previous and current employment and professional history information to verify and validate all claimed credentials are current, accurate, and in good standing;

(f) To negotiate site assignments, and to recruit and retain health professionals for Indian Health programs. Portions of records from this system of records may be used by staff of the HHS/PSC; Division of Financial Operations(DFO), Debt Management, who maintain System No. 09–40–0012, ''Debt Management and Collection Systems'' and System No. 09–90–0024, ''Financial Transaction of HHS Accounting and Finance Offices'', for activities related to the participants' breach of contract including debt collection information provided to PSC staff includes, but may not be limited to the participants' personal identification, number of years of support in school while covered by an IHS scholarship contract, number of days served and still owed, and amount of funds expended and still owed;

(g) To assist the IHS in determining eligibility for a partial or full waiver of the service obligation as provided for by statute; and

(h) To assist Department of Health and Human Services (HHS), Program Support Center (PSC) and other government officials in the collection of any and all overdue debts owed under the IHS Scholarship Program.

2. *The IHS Loan Repayment Program.*

(a) To monitor loan repayment related activities including but not limited to service obligations, default and claims determinations;

(b) To assure IHS loan repayment recipients match to a health care facility serving high priority health professional shortage areas or populations as outlined by current IHS scoring criteria policy and procedure, such as IHS medical facilities, including but not limited to hospitals, health clinics and ambulatory stations; and any other programs as required under 25 U.S.C. 1616a;

(c) To monitor services provided by IHS loan repayment participants;

(d) To maintain records on and to verify individuals' credentials and educational background;

(e) To assist the IHS in determining eligibility for a partial or full waiver of the service obligation as provided for by statute; and

(f) To assist PSC and other governmental officials in the collection of overdue debts owed under the IHS Loan Repayment Agreement Program.

3. *The IHS Grant Programs (Indians Into Nursing, Indians Into Medicine, and Indians Into Psychology).*

(a) To select applicants for the IHS grant programs;

(b) To monitor grant related activities, such as payment tracking, deferment and/or postponement of service obligations owed, placement, completion, default, and debt collection through national credit company subscription(s);

(c) To select and match IHS grant funds recipients for qualified employment assignments with the following: IHS medical facilities, including but not limited to hospitals,

health clinics and ambulatory stations; and any other programs authorized under 25 U.S.C. 1616a;

(d) To monitor services provided by these IHS grant fund recipient/participant/obligated health care professionals;

(e) To maintain records on and to verify individuals' credentials, educational background, prior and current performance history and data and previous and current employment and professional history information to verify and validate all claimed credentials are current, accurate, and in good standing;

(f) To negotiate site assignments, and to recruit and retain health professionals for Indian Health programs. Portions of records from this system of records may be used by staff of the HHS/PSC; Division of Financial Operations (DFO), Debt Management, who maintain System No. 09–40–0012, ''Debt Management and Collection Systems'' and System No. 09–90–0024, ''Financial Transaction of HHS Accounting and Finance Offices'', for activities related to the participants' breach of contract including debt collection information provided to PSC staff includes, but may not be limited to the participants' personal identification, number of years of support in school while covered by an IHS scholarship contract, number of days served and still owed, and amount of funds expended and still owed;

(g) To assist the IHS in determining eligibility for a partial or full waiver of the service obligation as provided for by statute; and

(h) To assist Department of Health and Human Services (HHS), Program Support Center (PSC) and other government officials in the collection of any and all overdue debts owed under the IHS grant programs.

3. *The IHS Health Professions Support Branch.*

(a) To negotiate site assignments, and recruit and retain health professionals for Indian Health programs. Portions of records from this system of records may be used by staff of the HHS/PSC; Division of Financial Operations (DFO), Debt Management, who maintain System No. 09–40–0012, ''Debt Management and Collection Systems'' and System No. 09–90–0024, ''Financial Transaction of HHS Accounting and Finance Offices'', for activities related to the participants' breach of contract including debt collection information provided to PSC staff includes, but may not be limited to the participants' personal identification, number of days served and still owed, and amount of funds expended and still owed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. IHS may disclose records to a congressional office in response to a verified inquiry from the congressional office made at the written request of the subject individual.

2. Records may be disclosed to authorized persons employed by the grantee institution (the educational institution which the recipient of a scholarship or grant is attending as needed for the administration of a scholarship or grant award.

3. Records may be disclosed to other Federal or State agencies that also provide scholarships, loan repayment or grant funding at the request of these agencies to detect or curtail fraud and abuse in Federal programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

4. IHS may disclose information from these records in litigations and/or proceedings related to an administrative claim when:

(a) IHS has determined that the use of such records is relevant and necessary to the litigation and/or proceedings related to an administrative claim and would help in the effective representation of the affected party listed in subsections (i) through (iv) below, and that such disclosure is compatible with the purpose for which the records were collected. Such disclosure may be made to the Department of Justice (DOJ) when any of the following is a party to litigation and/or proceedings related to an administrative claim or has an interest in the litigation and/or proceedings related to an administrative claim:

(i) HHS or any component thereof; or

(ii) Any HHS employee in his or her official capacity; or

(iii) Any HHS employee in his or her individual capacity where the DOJ (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(iv) The United States or any agency thereof (other than HHS) where HHS/OGC has determined that the litigation and/or proceedings related to an administrative claim is likely to affect HHS or any of its components.

(b) In the litigation and/or proceedings related to an administrative claim described in subsection (a) above, information from these records may be disclosed to a court or other tribunal, or to another party before such tribunal when such records are relevant and necessary to the litigation and such use by the court, tribunal, or other party is compatible with the purpose for which the agency collected the records.

5. IHS may provide to any organization, program or facility administered under the authority of the IHCIA (Pub. L. 93–437) solely to provide health care services for the benefit of Indians, whether directly by our service; or by any Federally recognized Tribe under authority of the Indian Self Determination and Education Assistance Act (ISDEAA) (Pub. L. 93–638, as amended); a list of obligated recipients of scholarships, loan repayment or grants, and any relevant information pursuant to recruiting and retaining these individuals for the purpose of meeting the health care needs of the requesting organization, program, facility or the Federal recognized Tribe under IHCIA and ISDEAA.

6. IHS may disclose records consisting of names, disciplines, current mailing addresses, e-mail address and dates of graduation of scholarship, loan repayment or grant recipients to designated coordinators at schools for the purpose of guiding and informing these recipients about the nature of their forthcoming professional service obligation.

7. IHS may disclose records consisting of names of the IHS scholarship, loan repayment, and/or grant recipient, professional school he or she is attending, and the date of graduation to Indian health programs as defined by the IHCIA; health professions associations, other interested health professions groups and contractors and subcontractors which have responsibility for coordinating funds paid to students from Federal and other sources. Contractors and/or subcontractors are required to maintain Privacy Act safeguards with respect to such records.

8. IHS may disclose records contained in this system of records to HHS contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors and/or subcontractors are required to maintain Privacy Act safeguards with respect to such records.

9. IHS may disclose records contained in this system of records to HHS contractors and subcontractors for the purpose of recruiting, screening, and matching health/allied health professionals for assignment to or employment in a medical facility located in one of the options cited in sections 104(b)(3), 108(a)(2)(A), and/or 217(d) of the IHCIA. In addition, HHS contractors and subcontractors:

(a) May disclose biographic data and information supplied by potential applicants;

(i) To references listed on application and associated forms for the purpose of evaluating the applicant's professional qualifications, experience, and suitability, and

(ii) To a State or local government medical licensing board and/or to the Federation of State Medical Boards or a similar non-government entity for the purpose of verifying that all claimed background and employment data are valid and all claimed credentials are current and in good standing.

(b) May disclose biographic data and information supplied by references listed on application and associated forms to other references for the purpose of inquiring into the applicants' professional qualifications and suitability; and

(c) May disclose professional suitability evaluation information to IHS officials, prospective employers, or to officials of prospective employers, or to site representatives, for the purpose of appraising the applicant's professional qualifications and suitability for site assignment or employment.

Contractors and/or subcontractors are required to maintain Privacy Act safeguards with respect to such records.

10. IHS may disclose records contained in this system of records to private parties such as present and former employers references listed on application and associated forms, other references, and education institutions. The purpose of such disclosures is to obtain information to evaluate an individuals' professional accomplishments, performance, and educational background, and to determine if an applicant is suitable for employment in/assignment to a medical facility located at one of the sites listed in sections 104(b)(3), 108(a)(2)(A), and/or 217(d) of the IHCIA.

11. IHS may disclose records contained in this system of records to other Federal agencies that also provide scholarship, educational loan repayment, or grant funding at the request of these Federal agencies in conjunction with a computer matching program conducted by these Federal agencies to detect or curtail fraud and abuse in Federal scholarship or educational loan repayment programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

12. IHS may disclose information from this system of records to a consumer reporting agency (credit bureau) to obtain an applicant or participant's commercial credit report for the following purposes: (1) To establish his or her credit worthiness; (2) to assess and verify his or her ability to repay debts owed to the Federal Government; (3) to determine and verify the eligibility of loans submitted for repayment; and to determine current contact information and mailing address.

13. IHS may also disclose information from this system of records to the National Student Clearinghouse using the Loan Locator Internet System or similar system to assist in the verification loan data submitted by Loan Repayment Program (LRP) applicants. Disclosure are limited to the individual's name, address, and other information necessary to identify him or her; locate all student loans and verify payment addresses; identify the funding being sought or amount and status of the debt; and the program under which the applicant or claim is being processed.

Disclosure to consumer reporting agencies: Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 158a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purposes of these disclosures are: (1) To provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records, and (2) to enable PHS agencies to improve the quality of loan, scholarship and grant decisions by taking into account the financial reliability of applicants. Disclosure of records will be limited to the individual's name, and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

14. IHS may disclose from this system of records a delinquent debtor's or a defaulting participant's name, address, and other relevant information necessary to identify him or her; the amount, status, and the history of the claim, and the agency or program under which the claim arose, as follows:

(a) To any Federal agency to effect a salary offset for debts owed by Federal employees; if the claim arose under Social Security Act, and the employee must have agreed in writing to the salary offset with the supporting document from the requesting Federal agency.

(b) To any Federal agency to effect authorized administrative offset; *i.e.,* withhold money, other than Federal salaries, payable to or held on behalf of the individual that is court ordered and/or in accordance with a specific law/mandate.

(c) To the Treasury Department, Internal Revenue Service (IRS), to request an individual's current mailing address to locate him or her for purposes of either collecting or compromising a debt or to pay a commercial credit report prepared.

15. IHS may disclose to debt collection agents, other Federal agencies, and other third parties who are authorized to collect a Federal debt, information necessary to identify a delinquent debtor or a defaulting participant. Disclosure will be limited to the individual's name, address, and other information necessary to identify him or her; the amount, status, and history of the claim, and the agency or program under which the claim arose.

16. IHS may disclose to the IRS information about an individual applying for the IHS loan repayment, scholarship or grant program authorized by the Public Health Service Act to find out whether the applicant has a delinquent tax account. This disclosure is for the sole purpose of determining the applicant's creditworthiness and is limited to the individuals' name, address, and other relevant information necessary to identify him or her, and the program for which the information is being obtained.

17. IHS may report to the IRS, as taxable income, the written-off amount of a debt owed by an individual to the Federal Government when a debt becomes partly or wholly uncollectible, either because the time period for collection under statute or regulations has expired, or because the Government agrees with the individual to forgive or compromise the debt.

18. IHS may disclose from this system of records to the Department of Treasury, IRS: (1) A delinquent debtor's or a defaulting participant's name, address, and other relevant information necessary to identify the individual; (2) the amount of the debt; and (3) the program under which the debt arose, so that the IRS can offset against the debt any income tax refunds which may be due to the individual.

19. IHS may disclose information provided by the lender or education institution to other Federal agencies, debt collection agents, and other third parties who are authorized to collect a Federal debt. The purpose of this disclosure is to identify an individual who is delinquent in loan or benefit payments owed to the Federal Government and the nature of the debt.

20. To appropriate Federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or

confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and necessary for that assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper format (*i.e.,* file folders), and in computerized and electronic format (*i.e.,* forms, database(s), *etc.*).

RETRIEVABILITY:

Records which identify individual persons are indexed by name or assigned identification number of scholarship, loan repayment or grant applicant or recipient.

SAFEGUARDS:

1. *Authorized users:* Access is limited only to authorized personnel in the performance of their duties. Authorized personnel includes and is limited to: The system manager, his or her staff, IHS Area Office Scholarship or IHS Loan Repayment Coordinators or grant project officers, IHS Headquarters Branch and Division Chiefs while acting as advisors to scholarship or IHS loan repayment or grant recipients, IHS and PSC debt management staff for activities related to the participants' breach of contract including debt collection.

2. *Physical safeguards:* Paper records are stored in locked file cabinets or file room. The records storage areas are secured during off-duty hours. Electronic records are stored in areas where fire and life safety codes are strictly enforced. Any and all records pertaining to IHS Scholarship, Loan Repayment and grant program databases are to be enforced by the current Security Guidelines provided by HHS/IHS. All automated and non-automated documents are protected during lunch hours and nonworking hours in locked file cabinets or locked storage areas. The Automated Data Processing remote stations are locked during non-standard working hours. Twenty-four hour, 7-day security guards perform random checks on the physical security of the data and the storage areas. Backup files are maintained in an off-site facility with controlled entrances and exits.

3. *Procedural safeguards:* All IHS personnel who make use of records contained in this system are made aware of their responsibilities under the provisions of the Privacy Act and are required to maintain Privacy Act safeguards with respect to such records. The records storage areas are not left unattended during office hours, including lunch hours. Records are not removed from these areas in which they are maintained in the absence of proper charge-out procedures. Twenty-four hour, seven-day security guards perform random checks on the physical security of all records storage areas. A data set name controls the release of data to only authorized users. When copying records for authorized purposes, care is taken to ensure that any imperfect pages are not left in the reproduction room where they can be read, but are destroyed or obliterated.

RETENTION AND DISPOSAL:

1. Scholarship applications of individuals not selected for participation in the program are retained for 1 full year, and then destroyed by shredding. Applications, contracts, and other records of IHS scholarship recipients are retained through the completion or other disposition of the scholarship service obligation, then sent to the Federal Records Center (FRC) for an additional 15-year retention period and destroyed in accordance with FRC disposal standards. Automated historical tapes are sent to a FRC and the initial records are destroyed in accordance with IHS Records Control Schedule.

The records for the scholarship applicants, who are not obligated to the IHS, are destroyed 6 years and 3 months after final payment, or upon resolution of any adverse audit findings, whichever is later.

2. Loan repayment applications of individuals not selected for participation in the program are retained until the end of the fiscal year. Loan repayment applications, upon notification, are applied to the loan repayment cycle of the following fiscal year. The records for the loan repayment participants are destroyed 6 to 10 years after the final payment, or upon resolution of any adverse audit findings, whichever is later.

Records are transferred to the FRC 2 years after final repayment or when closed, for 4 years, and are then subsequently disposed of in accordance with the IHS Records Disposition Schedule. The IHS Records Disposition Schedule regulations for these records may be obtained by writing to the System Manager(s) at the address listed below.

3. Applications, contracts, and other records of IHS grant recipients are retained through the completion or other disposition of the service obligation, then sent to the Federal Records Center (FRC) for an additional 15-year retention period and destroyed in accordance with FRC disposal standards. Automated historical tapes are sent to a FRC and the initial records are destroyed in accordance with IHS Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

POLICY COORDINATING OFFICIAL(S):

Director, Division of Health Professions Support, Office of Public Health Support, Indian Health Service, 12300 Twinbrook Parkway, Suite 450A, Rockville, Maryland 20852.

Director, Division of Grants Operations, Office of Management Services, Indian Health Service, 12300 Twinbrook Parkway, Suite 360, Rockville, Maryland 20852.

Chief, Scholarship Branch, Division of Health Professions Support, Office of Public Health Support, Indian Health Service, 12300 Twinbrook Parkway, Suite 450A, Rockville, Maryland 20852.

Chief, Loan Repayment Branch, Division of Health Professions Support, Office of Public Health Support, Indian Health Service, 12300 Twinbrook Parkway, Suite 450A, Rockville, Maryland 20852.

NOTIFICATION PROCEDURES:

Requests in person: A subject individual who appears in person at a specific location seeking access to or disclosure of records relating to him or her shall provide his or her name, current address, Grant Identification Number, last four digits of their SSN or other identification numbers, dates of enrollment in the IHS scholarship, loan repayment or grant program, and at least one piece of tangible identification such as driver's license, passport, or voter registration card. Identification papers with current photographs are preferred, but not required. If a subject individual has no identification, but is personally known to an agency employee, such employee shall make a written record verifying the subject individual's identity. Where the subject individual has no identification papers, the responsible agency official shall require that the subject individual certify in writing that he or she is the individual who he or she claims to be and that he or she understands that the knowing and willful request or acquisition of a record concerning an individual under false pretenses is a criminal offense subject to a 5,000 dollar fine.

Requests by mail: A written request must contain the name and address of the requestor, last 4 digits of their respective SSN and/or signature which is either notarized to verify his or her identity or includes a written certification that the requestor is the person he or she claims to be and that

he or she understands that the knowing and willful request or acquisition of records pertaining to an individual under false pretenses is a criminal offense subject to a 5,000 dollar fine. In addition, the following information is needed: Dates of enrollment in the IHS scholarship program, IHS Loan Repayment program, or grant program and current enrollment status, such as pending application approval, deferment or service obligation, or shortage area placement.

Requests by facsimile: A written request must contain the name and address of the requestor, last 4 digits of their respective SSN and/or signature. In addition, the following information is needed: Dates of enrollment in the IHS Scholarship Program, IHS Loan Repayment Program, or grant program and current enrollment status, such as pending application approval, deferment or service obligation, or shortage area placement. The IHS Scholarship, Loan Repayment or grant program will authorize transmission and reception of all faxed information only if the fax coversheets contain the following Confidentiality Statement or a similar standard procedural statement for liability purposes:

THIS FAX IS INTENDED ONLY FOR THE USE OF THE PERSON OR OFFICE TO WHOM IT IS ADDRESSED, AND CONTAINS PRIVILEGED OR CONFIDENTIAL INFORMATION PROTECTED BY LAW. ALL RECIPIENTS ARE HEREBY NOTIFIED THAT INADVERTENT OR UNAUTHORIZED RECEIPT DOES NOT WAIVE SUCH PRIVILEGE, AND THAT UNAUTHORIZED DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE DESTROY THE ATTACHED DOCUMENT(S) AND NOTIFY THE SENDER OF THE ERROR BY CALLING.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored; the caller is asked to submit his or her request in writing.

Requests by electronic mail: Since positive identification of the requestor cannot be established, and the electronic transmission of personal identifiers is not encrypted, the security safeguards is not guaranteed from an unauthorized disclosure, so electronic mail requests are not honored and will be deleted from the IHS e-mail system; the computer user is asked to submit his or her request in writing and/or by facsimile transmission.

Record access procedures: Same as notification procedures. Requesters should also provide a reasonable description of the record being sought. Requesters may also request an accounting of disclosures that have been made of their record, if any.

Contesting record procedures: Contact the Policy Coordinating Official(s), provide a reasonable description of the record, and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

Record source categories: Information will be collected from the following sources: Educational institutions attended; internship and/or residency training progress reports; IHS site selection questionnaires; IHS Scholarship, Loan Repayment or grant applicants; Indian health programs human resources department; financial institutions from which these applicants have obtained educational loans; Bureau of Health Professions Area Resources File tapes; health professional associations; HHS contractors/subcontractors; consumer reporting agencies/credit bureaus; lending institutions; PHS Commissioned Personnel Operations Division and U.S. Office of Personnel Operations Division and U.S. Office of Personnel Management personnel records; other Federal agencies, including but not limited to the Department of Treasury, the IRS, and the U.S. Postal Service; State or local government medical licensing boards and/or the Federation of State Medical Boards or a similar non-government entity; and third parties who provide references concerning the subject individual.

Systems exempted from certain provisions of the Act: None.

[FR Doc. E9–23569 Filed 9–29–09; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; 67 FR 46519, as last amended Wednesday, June 11, 2008; 73 FR 33099). This Order of Succession supersedes the Order of Succession for the Administrator, HRSA, published at FR 73 33099, June 11, 2008.

This notice deletes the Chief Financial Officer from the order of succession and adds the Chief Operating Officer to HRSA's hierarchy affecting the order of succession; this notice also changes the name of the Office of Performance Review to the Office of Regional Operations.

Section R–30, Order of Succession

During the absence or disability of the Administrator, or in the event of a vacancy in the office, the officials designated below shall act as Administrator in the order in which they are listed:

1. Deputy Administrator;
2. Senior Advisor to the Administrator;
3. Chief Operating Officer;
4. Associate Administrator, Bureau of Primary Health Care;
5. Associate Administrator, Bureau of Health Professions;
6. Associate Administrator, HIV/AIDS Bureau;
7. Associate Administrator, Maternal and Child Health Bureau;
8. Associate Administrator, Bureau of Clinician Recruitment and Service;
9. Associate Administrator, Healthcare Systems Bureau;
10. Associate Administrator, Office of Regional Operations; and
11. HRSA Regional Division Directors in the order in which they have received their permanent appointment as such.

Exceptions

(a) No official listed in this section who is serving in acting or temporary capacity shall, by virtue of so serving, act as Administrator pursuant to this section.

(b) Notwithstanding the provisions of this section, during a planned period of absence, the Administrator retains the discretion to specify a different order of succession.

Section R–40, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this action, and that are consistent with this action, shall continue in effect pending further re-delegation, provided they are consistent with this action.

This document is effective upon date of signature.

Dated: September 24, 2009.

Mary K. Wakefield,

Administrator.

[FR Doc. E9–23570 Filed 9–29–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2009–0106]

Privacy Act of 1974; U.S. Immigration and Customs Enforcement–012 Visa Security Program (VSP) System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new system of records titled, U.S. Immigration and Customs Enforcement DHS/ICE–012 Visa Security Program Records (VSPR). The purpose of the VSPR system is to manage, review, track, investigate, and document visa security reviews conducted by ICE agents pertaining to U.S. visa applicants and to document ICE visa recommendations to the U.S. State Department. VSPR contains information about individuals who have applied for U.S. visas and undergo a visa security review. VSPR also contains data maintained in the Office of International Affairs' Visa Security Program Tracking System (VSPTS–Net), a software application used by ICE to record, track, manage, and report visa security review activities. VSPTS–Net manages the workflow associated with visa security reviews by recording and tracking all visa applicant reviews, records checks, and follow-up investigative activities. Additionally, a Privacy Impact Assessment (PIA) for VSPTS–Net will be posted on the Department's privacy Web site (*see http://www.dhs.gov/privacy* and follow the link to ''Privacy Impact Assessments.'') Due to urgent homeland security and law enforcement mission needs, VSPTS–Net is currently in operation. Recognizing that ICE is publishing a notice of system of records for an existing system, ICE will carefully consider public comments, apply appropriate revisions, and republish the VSPR notice of system of records within 180 days of receipt of comments. A proposed rulemaking is also published in this issue of the **Federal Register** in which the Department proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements.

DATES: The established system of records will be effective October 30, 2009. Written comments must be submitted on or before October 30, 2009.

ADDRESSES: You may submit comments, identified by DHS–2009–0106, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Lyn Rahilly, (202–732–3300) Privacy Officer, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Washington, DC 20536; or Mary Ellen Callahan, (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Visa Security Program Records (VSPR) system of records is owned and maintained by the ICE Office of International Affairs (OIA). It consists of paper and electronic records created in support of the Visa Security Program, the purpose of which is to identify persons who may be ineligible for a U.S. visa because of criminal history, terrorism association, or other factors and convey that information to the State Department, which decides whether to issue the visa. VSPR contains records on visa applicants for whom a visa security review is conducted. The Visa Security Program Tracking System (VSPTS-Net) is a new OIA application scheduled to deploy in September 2009 that supports the management of ICE's Visa Security Program. ICE Special Agents use VSPTS-Net to record, track, and manage all visa security reviews performed by ICE. The VSPR system of records describes records maintained in VSPTS-Net and associated paper records.

In support of Section 428 of the Homeland Security Act of 2002, ICE deploys agents to U.S. embassies and consulates (''consular posts'') in high-risk areas worldwide to conduct security reviews of visa applications. ICE agents assigned to the Visa Security Program examine visa applications, initiate investigations of applicants who may be ineligible for a visa, coordinate with other law enforcement entities, and provide advice and training to the State Department. Through its Visa Security Program, ICE also participates in the Security Advisory Opinion (SAO) process. which is a U.S. Government mechanism to coordinate third-agency checks on visa applicants about whom the State Department has security-related concerns. Upon request from the State Department, ICE provides information from DHS record systems about visa applicants who are selected to undergo the SAO process. The State Department in turn provides the results of SAO checks to consular officers to aid in adjudicating visa applications. Like the ICE Special Agents located at consular posts abroad, ICE agents and analysts supporting SAO operations identify persons who may be ineligible for a U.S. visa because of criminal history, terrorism association, or other factors and convey that information to the State Department, which decides whether to issue the visa.

VSPTS-Net will be used to support the Visa Security Program activities described above by recording, tracking, and managing the SAOs and visa security reviews and documenting the results that are communicated to the State Department. VSPTS-Net will provide ICE agents with an intranet-based application that manages the workflow associated with visa security reviews and provides the necessary analytical, reporting and data storage capabilities. VSPTS-Net will also allow users (ICE employees and contractors) to record relevant visa application data, derogatory information about applicants, visa recommendation data. It also supports the generation of performance metrics for the Visa Security program as a whole. Ultimately, the system helps the Visa Security Program and the State Department prevent known and suspected terrorists, criminals, and other ineligible persons from obtaining U.S. visas. A PIA was conducted on VSPTS-Net because it is a new system that will maintain personally identifiable information (PII). The VSPTS-Net PIA is available on the Department of Homeland Security (DHS) Privacy Office Web site at *http://www.dhs.gov/privacy*.

The DHS/ICE–012 VSPR system of records will collect, use, disseminate, and maintain PII on persons who apply for a visa and undergo a visa security review. This collection of information is necessary for ICE to conduct visa

security reviews and to provide the State Department with a visa recommendation and/or information that is relevant to the applicant's eligibility for a visa under Federal law.

Consistent with DHS's information sharing mission, information stored in the VSPR system of records may be shared with other DHS components, as well as appropriate Federal, State, local, Tribal, foreign, or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

A proposed rulemaking is published in this issue of the **Federal Register** in which the Department proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. Individuals may request information about records pertaining to them stored in DHS/ICE–012 VSPR system of records as outlined in the ''Notification Procedure'' section below. ICE reserves the right to exempt various records from release pursuant to exemptions 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2) of the Privacy Act.

This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR Part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/ICE–012 Visa Security Program Records (VSPR) system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS:

DHS/ICE–012

SYSTEM NAME:

Visa Security Program Records (VSPR).

CLASSIFICATION:

Classified; Controlled Unclassified Information.

SYSTEM LOCATION:

Records are maintained at the U.S. Immigration and Customs Enforcement (ICE) Headquarters in Washington, DC, ICE field offices, and foreign embassies and consulates.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include:

(1) Individuals who apply for U.S. visas, and

(2) Other individuals who are identified on the visa application, such as the applicant's spouse, individuals traveling with applicant, application preparer's name, and individuals identified by the applicant as the person in the U.S. with whom the applicant will stay (hereafter, applicant point of contact).

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system may include:

(1) Biographic, employment, contact, and other types of information provided on the visa application, or by the applicant and others during interviews, such as name, address, phone number, e-mail address, date of birth, country of birth, nationality, passport number, information related to applicant's intended travel to the United States, spouse's name, names and relationships of individuals traveling with applicant, the application preparer's name, and the name and address of the applicant point of contact.

(2) Information obtained during a visa security review from interviews, public records, foreign governments, and U.S. government databases, such as the State Department's visa control number, lookout records, criminal history, admission, visa and immigration history, and records indicating a possible threat to homeland or national security due to terrorism or other reasons.

(3) Recommendations and/or other information provided by ICE to the State Department pertaining to visa applicants, and the State Department's decision on the visa application.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1103; 8 U.S.C. 1153–55; 8 U.S.C. 1201–1204; Section 428 of the Homeland Security Act of 2002; 22 CFR 41.122; Memorandum of Understanding between DHS, Federal Bureau of Investigation, and State Department Bureau of Consular Affairs on Improved Information Sharing Services signed July 18, 2009; Memorandum of Understanding Between the Secretaries of State and Homeland Security Concerning the Implementation of Section 428 of the Homeland Security Act of 2002 signed on September 26, 2003; Memorandum of Understanding between the Department of State, Bureau of Consular Affairs and the Department of Homeland Security, U.S. Immigration and Customs Enforcement for Cooperation in Datasharing signed on October 6, 2006; and Memorandum of Agreement Between the Department of State and the Department of Homeland Security Regarding the Sharing of Visa and Passport Records and Immigration and Naturalization and Citizenship Records signed on November 18, 2008.

PURPOSE(S):

(a) To manage, review, track, investigate, document, and report on visa security reviews conducted by ICE agents pertaining to U.S. visa applicants and to document ICE recommendations to the State Department on visa issuance;

(b) To facilitate communication among ICE personnel on matters pertaining to visa applications, visa holders, and visa security reviews;

(c) To enforce the provisions of the Immigration and Nationality Act, as amended; and

(d) To identify potential criminal activity, immigration violations, and threats to homeland security; to uphold

and enforce the law; and to ensure public safety.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to an individual that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, Tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena.

I. To Federal and foreign government intelligence or counterterrorism agencies when DHS reasonably believes there to be a threat or potential threat to national or international security for which the information may be useful in countering the threat or potential threat, when DHS reasonably believes such use is to assist in anti-terrorism efforts, and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

J. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws including treaties and reciprocal agreements.

K. To an organization or individual in either the public or private sector, either foreign or domestic, where there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, to the extent the information is relevant to the protection of life or property and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

L. To appropriate Federal, State, local, Tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty where DHS determines that the information would assist in the enforcement of civil or criminal laws.

M. To appropriate Federal, State, local, Tribal, or foreign governmental agencies or multilateral governmental organizations where DHS is aware of a need to utilize relevant data for purposes of testing new technology and systems designed to enhance national security or identify other violations of law.

N. To third parties during the course of a visa security review to the extent necessary to obtain information pertinent to the review, provided disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

O. To international and foreign governmental authorities in accordance with law and formal or informal international arrangements.

P. To a Federal, State, or local agency, or other appropriate entity or individual, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information for the purposes of intelligence, counterintelligence, or antiterrorism activities authorized by U.S. law, Executive Order, or other applicable national security directive.

Q. To a Federal, State, Tribal, local, international, or foreign government agency or entity for the purpose of consulting with that agency or entity: (1) To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program; (2) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a DHS component or program; or (3) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

R. To the Federal Bureau of Investigation, the National Counter-Terrorism Center (NCTC), the Terrorist Screening Center (TSC), or other appropriate Federal agencies, for the integration and use of such information to protect against terrorism, if that record is about one or more individuals

known, or suspected, to be or to have been involved in activities constituting, in preparation for, in aid of, or related to terrorism. Such information may be further disseminated by recipient agencies to Federal, State, local, territorial, Tribal, and foreign government authorities, and to support private sector processes as contemplated in Homeland Security Presidential Directive/HSPD–6 and other relevant laws and directives, for terrorist screening, threat-protection and other homeland security purposes.

S. To appropriate Federal, State, local, Tribal, or foreign governmental agencies or multilateral government organizations for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health risk, as practicable.

T. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by visa applicant name, passport number, or visa control number.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The system maintains a real-time auditing function of individuals who access the system.

RETENTION AND DISPOSAL:

ICE is in the process of drafting a proposed record retention schedule for the information maintained in VSPR, including system information maintained in VSPTS–Net. ICE anticipates retaining the following records for 25 years after the date of review: visa security reviews where ICE has no adverse finding and does not object to the issuance of a visa, visa security reviews where ICE does not object to the issuance of a visa but provides derogatory information to the Department of State regarding the applicant, and visa security reviews where ICE recommends against the issuance of a visa, with no nexus to terrorism. ICE anticipates retaining the following records for 75 years after the date of review: visa security reviews where ICE recommends against the issuance of a visa due to a nexus to terrorism, or where ICE does not object to the issuance of the visa but provides terrorism-related information to the State Department regarding the applicant. ICE also anticipates that extracts of visa applicant data created for the purpose of creating VSPTS–Net records will be retained by ICE for one week and then destroyed/deleted.

SYSTEM MANAGER AND ADDRESS:

Visa Security Program Unit Chief, Office of International Affairs, U.S. Immigration and Customs Enforcement, 800 N. Capitol Street NW., Suite 300, Washington, DC 20536.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, ICE will consider requests individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0550, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Information is obtained from the visa application, the visa applicant, Federal databases, foreign governments, Interpol, Europol, employers, family members, public records, the Internet, and other individuals or entities from which information is collected during a visa security review.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), and (e)(4)(H), (e)(5) and (e)(8); (f); and (g). Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). In addition, to the extent a record contains information from other exempt systems of records, DHS will rely on the exemptions claimed for those systems.

Dated: September 23, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–23522 Filed 9–29–09; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; new information collection; OMB No. 1660–NEW; FEMA Form 089–8, IBSGP Investment Justification Template.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed new information collection. In accordance with the Paperwork Reduction Act of 1995, this Notice seeks comments concerning the Intercity Bus Security Grant Program (IBSGP).

DATES: Comments must be submitted on or before November 30, 2009.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under docket ID FEMA–2009–0001. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Office of Chief Counsel, Regulation and Policy Team, DHS/FEMA, 500 C Street, SW., Room 835, Wash, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA–POLICY@dhs.gov.* Include docket ID FEMA–2009–0001 in the subject line.

All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Alexander Mrazik, Program Analyst, Grant Programs Directorate, 202–786–9732 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e0mail address: *FEMA–Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Intercity Bus Security Grant Program (IBSGP) is a DHS grant program that focuses on infrastructure protection activities. IBSGP is one tool among a comprehensive set of measures authorized by Congress and implemented by the Administration to help strengthen the nation's critical infrastructure against risks associated with potential terrorist attacks. Section 1532, Title XV of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (6 U.S.C. 1182), mandates the Secretary to establish a grant program for eligible private operators providing transportation by an over-the-road bus for security improvements and that the Secretary shall determine the requirements for grant recipients, including application requirements.

Collection of Information

Title: FEMA FY 2009 Preparedness Grants: Intercity Bus Security Grant Program (IBSGP).

Type of Information Collection: New information collection.

OMB Number: 1660–NEW.

Form Titles and Numbers: FEMA Form 089–8, IBSGP Investment Justification Template.

Abstract: The IBSGP Investment Justification Template is submitted with the application which provides narrative details on proposed investments. These Investment Justifications must demonstrate how proposed projects address gaps and deficiencies in current programs and capabilities and the ability to provide enhancements consistent with the purpose of the program and guidance provided by FEMA. The data from the IBSGP Investment Justification Template is collected to assist decision-making at all levels, although it is primarily used by individual application reviewers.

Affected Public: Business or other for-profit.

Estimated Total Annual Burden Hours: 280 hours.

TABLE A.12—ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate*	Total annual respondent cost
Business or other for-profit.	IBSGP Investment Justification Template, FEMA Form 089–8.	56	1	56	5	280	$25.97	$7,271.60
Total		56				280		$7,271.60

Estimated Cost: There is no annual reporting recordkeeping cost associated with this collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Larry Gray,

Director, Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–23520 Filed 9–29–09; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Cherokee Nation Limited Mixed Beverage Sales Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the legislation passed by the Cherokee Nation amending Cherokee Nation Legislative Act # 09–04 that regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian country and this enactment allows for possession and sale of alcoholic beverages within their boundaries. This law will increase the ability of the tribal government to control the community's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Ordinance is effective on October 30, 2009.

FOR FURTHER INFORMATION CONTACT: Charles Head, Tribal Government Services Officer, Eastern Oklahoma Regional Office, PO Box 8002, Muskogee, OK 74402–8002, Telephone: (918) 781–4685, Fax (918) 781–4649; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240, Telephone: (202) 513–7640.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The governing body of the Cherokee Nation passed the Limited Mixed Beverage Sales Act on July 14, 2008. This enactment amends the Cherokee Nation's alcohol control laws last published in the **Federal Register** June 28, 2004. The purpose of this amendment is to authorize the Cherokee Nation's limited liability company or other person to apply for a license to establish liquor retail sales at various locations within tribal lands of the Tribe.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that this Limited Mixed Beverage Sales Act—Legislative Act #41–03 was enacted by the legislative body of the Cherokee Nation on July 14, 2008.

Dated: September 21, 2009.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

The Limited Mixed Beverage Sales Act of the Cherokee Nation reads as follows:

Legislative Act 13–08

A Legislative Act Amending the Cherokee Nation Limited Mixed Beverage Sales Act—Legislative Act #41–03, as Amended by Legislative Act #09–04

Be It Enacted by the Cherokee Nation:

Title and Codification:

This Act shall be known as the 2008 Technical Amendment to The Cherokee Nation Limited Mixed Beverage Sales Act and codified as ____ (Title) ____ (Section) ____ of the Cherokee Nation Code Annotated. The Cherokee Nation Limited Mixed Beverage Sales Act is hereby amended to read as follows:

Section 1. Title and Codification

This Act shall be known as The Cherokee Nation Limited Mixed Beverage Sales Act and codified as _____ (Title) _____ (Section) _____ of the Cherokee Nation Code Annotated.

Section 2. Authority

This legislation is enacted by the authority of the Cherokee Nation Tribal Council under Article V, Section 7 of the Constitution of the Cherokee Nation and the Federal *Act of August 15, 1953, 67 Stat. 586, codified at 18 U.S.C. Section 1161.*

Section 3. Purpose

This Act authorizes the Board of Directors of Cherokee Nation Enterprises, LLC (''CNE''), a limited liability company wholly owned by the Cherokee Nation, or other person approved by CNE, to apply for a license from the Tax Commission to establish retail liquor sales at designated locations within hotel, restaurant, entertainment and/or gaming operations located on trust land. The purpose of this Act is to regulate and control the possession and sale of liquor on trust land. This enactment will increase the ability of the Cherokee Nation to control the sale, distribution and possession of liquor at limited and designated areas on tribal trust land.

Section 4. Application of 18 U.S.C. Section 1161

Federal law requires that any Indian tribal authorization for the sale of liquor or other alcoholic beverages must be in conformity with the laws of the State and approved by an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country. All acts and transactions under this law of the Cherokee Nation shall be in conformity with federal law and with the laws of the State of Oklahoma as applicable.

Section 5. Effective Date

This Act shall be effective on the date of certification by the Secretary of the Interior or designee, or the date of its publication in the **Federal Register**, whichever is later.

Section 6. Definitions

As used in this Act, the following words shall have the following meanings unless the context clearly requires otherwise:

(a) ''Alcohol'' means the substance known as ethyl alcohol, hydrated oxide of ethyl, ethanol, or spirits of wine, from whatever source or by whatever process produced.

(b) ''Alcoholic Beverage'' is synonymous with the term ''liquor'' as defined in this Chapter.

(c) ''Board of Directors'' means the Board of Directors of Cherokee Nation Enterprises, LLC

(d) ''CNE'' means Cherokee Nation Enterprises, LLC

(e) ''Liquor'' includes mixed beverages and all fermented, spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, a part of which is fermented, and every liquid or solid or semisolid or other substance, patented or not, containing distilled or rectified spirits, potable alcohol, beer, wine, brandy, whiskey, rum, gin, aromatic bitters, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semisolid, solid, or other substances, which contains more than one half of one percent of alcohol.

(f) ''Sale'' or ''Sell'' includes exchange, barter and traffic; and also includes the selling or supplying or distribution, by any means whatsoever, of liquor.

(g) ''Tax Commission'' means the Cherokee Nation Tax Commission.

(h) ''Trust Land'' means those lands that are held in trust by the United States for the Cherokee Nation and not for any individual Indian.

Section 7. Powers of Enforcement

The Tax Commission. In furtherance of this Act, the Tax Commission shall have the power to:

(a) Issue licenses pursuant to Section 8 of this Act;

(b) collect the excise tax specified in Section 9 of this Act;

(c) publish and enforce rules and regulations adopted by the Tax Commission governing the sale, consumption and possession of alcoholic beverages;

(d) establish procedure for conducting hearings related to licensing; and

(e) take all necessary steps to enforce sections 8 and 9 of this Act, including the collection of fees, taxes and damages related thereto.

Section 8. Sales of Liquor

A. License Required. Sales of liquor and alcoholic beverages may only be made by CNE, or other person approved by CNE, under a license issued by the Tax Commission.

B. Identification. When requested by the provider of liquor, any person *asking to purchase liquor or being served in a group* shall be required to present official documentation bearing the holder's age, signature and photograph before being served. Official documentation includes one of the following:

(1) Driver's license or identification card issued by any state department of motor vehicles or *foreign nation;*

(2) United States Military identification;

(3) *Official* Passport *issued by any nation and accepted by the United States Department of State for entry into the United States.*

Section 9. Taxes

Excise Tax: In lieu of any otherwise applicable tribal sales tax on the retail sale of liquor for alcoholic beverages, there shall be an excise tax in the amount of two percent (2%) of the retail sales price, to be collected by the Tax Commission. These revenues shall be used to promote mental health and related issues associated with substance abuse and shall be reserved for expenditure as provided for in the annual budget by the Cherokee Nation Health Service. The Board of Directors shall be entitled to make recommendation as to how these revenues are expended.

Section 10. Rules, Regulations, and Enforcement

A. Sales Without License. Any person who shall sell or offer for sale, distribute or transport, in any manner, liquor in violation of this Act, or who shall operate or shall have liquor for sale in his possession without a license, shall be guilty of a violation of this Act subjecting him or her to prosecution for a crime.

B. Sale for Personal Consumption. All sales shall be for the personal consumption of the purchaser or persons in a group. Resale of any alcoholic beverage is prohibited. Any person not licensed pursuant to this Act who purchases an alcoholic beverage and sells it, whether in the original container or not, shall be guilty of a crime.

C. Illegal Purchases. Any person who buys liquor from any person other than a properly licensed facility shall be guilty of a violation of this Act, subjecting him or her to prosecution for a crime.

D. Minors. No person under the age of 21 years shall consume, acquire or have in his possession any liquor or alcoholic beverage. No person shall permit any other person under the age of 21 to consume liquor on his premises or any premises under his control except in those situations set out in this section. Any person violating this section shall be guilty of a violation of this Act, subjecting him or her to prosecution for a crime.

E. Sales to Minors. Any person who shall sell or provide any liquor to any person under the age of 21 years shall be guilty of a crime.

F. Sales to Intoxicated Persons. Any person who shall sell or provide any alcoholic beverage to an individual who is intoxicated, or appears intoxicated, shall be guilty of a crime.

G. False Identification. Any person who transfers in any manner an identification of age to a person under the age of 21 years for the purpose of permitting such person to obtain liquor or any alcoholic beverage shall be in violation of this Act, subjecting him or her to prosecution for a crime.

H. Using False Identification. Any person who attempts to purchase liquor or any alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this Act, subjecting him or her to prosecution for a crime.

I. Punishment. Any person found guilty of a crime under this section may be punished by imprisonment for up to one (1) year and/or fined up to $500.00 for each violation.

J. Contraband Liquor. Any liquor, possessed contrary to the terms of this Act, whether for personal consumption, hospitality, sale, or otherwise, is declared to be contraband. Any tribal law enforcement officer who is authorized to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the preservation of impounded property.

K. Forfeiture. Upon being found in violation of this Act, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Cherokee Nation.

Section 11. Severability and Effective Date

If any provision or application of this Act is determined by review to be invalid, such determination shall not be held to render ineffectual the remaining portions of this Act or to render such provisions inapplicable to other persons or circumstances.

Enacted by the Council of the Cherokee Nation on the *14th* day of *July,* 2008.

/s/ Meredith A. Frailey
Meredith A. Frailey,
Speaker, Council of the Cherokee Nation.

Attest:
/s/ Don Garvin
Don Garvin,
Secretary, Council of the Cherokee Nation.

Approved and signed by the Principal Chief this *21st* day of *July,* 2008.

/s/ Chadwick Smith
Chadwick Smith,
Principal Chief, Cherokee Nation.

Attest:
/s/ Melanie Knight
Melanie Knight,
Secretary of State, Cherokee Nation.

Yeas and Nays as Recorded:

Tina Glory Jordan	*Yea*
Bill John Baker	*Yea*
Joe Crittenden	*Nay*
Jodie Fishinghawk	*Yea*
Janelle Lattimore Fullbright	*Yea*
David W. Thornton, Sr.	*Yea*
Don Garvin	*Yea*
Harley L. Buzzard	*Yea*
Curtis G. Snell	*Yea*
Meredith A. Frailey	*Yea*
Chris Soap	*Yea*
Cara Cowan Watts	*Yea*
Buel Anglen	*Yea*
Bradley Cobb	*Yea*
Charles Hoskin, Jr.	*Yea*
Julia Coates	*Yea*
Jack D. Baker	*Yea*

[FR Doc. E9–23542 Filed 9–29–09; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–R–2009–N181;60138–1265–6CCP–S3]

Lee Metcalf National Wildlife Refuge, Stevensville, MT

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to gather information necessary to prepare a comprehensive conservation plan (CCP) and associated environmental documents for Lee Metcalf National Wildlife Refuge (NWR) in Stevensville, Montana. We furnish this notice in compliance with Service CCP policy to advise other agencies and the public of our intentions and to obtain suggestions and information on the scope of issues to consider in the planning process.

DATES: To ensure consideration, please send your written comments by November 13, 2009.

ADDRESSES: Send your comments or requests for more information by any of the following methods.

E-mail: leemetcalf@fws.gov. Include ''Lee Metcalf CCP'' in the subject line of the message.

Fax: Laura King, Planning Team Leader, 406–644–2661.

U.S. Mail: Laura King, Planning Team Leader, National Bison Range, Division of Refuge Planning, 58355 Bison Range Road, Moiese, MT 59824.

In-Person Drop-off: You may drop off comments during regular business hours at the above address or at the Lee Metcalf National Wildlife Refuge office located in Stevensville, Montana, at 4567 Wildfowl Lane.

FOR FURTHER INFORMATION CONTACT: Laura King, 406–644–2211, extension 210 (phone); or Michael Spratt, Chief, Division of Planning, P.O. Box 25486, Denver Federal Center, Denver, CO 80225.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for Lee Metcalf NWR for the conservation and enhancement of its natural resources. This notice complies with our CCP policy to (1) Advise other Federal and State agencies, tribes, and the public of our intention to conduct detailed planning on this refuge and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the National Wildlife Refuge System was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System mission, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides participation opportunities for tribal, State, and local governments; agencies; organizations; and the public. At this time we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of Lee Metcalf NWR.

We will conduct the environmental review of this project and develop environmental documents in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Lee Metcalf National Wildlife Refuge

This Refuge was established in 1963 and has two purposes:

(1) ''For use as an inviolate sanctuary, or for any other management purpose, for migratory birds'' (Migratory Bird Conservation Act); and

(2) ''for (a) incidental fish and wildlife oriented recreational development, (b) the protection of natural resources, [and] (c) the conservation of endangered species or threatened species'' (Refuge Recreation Act).

This Refuge is located in Ravalli County, 2 miles north of Stevensville, Montana. The Refuge is one of the Nation's smaller refuges, encompassing 2,800 acres, but it is one of the few remaining undeveloped areas in the Bitterroot Valley. The Refuge lies along the meandering Bitterroot River and is comprised of wet meadow and forested habitats and has created and modified wetlands. This Refuge provides numerous opportunities for the public, including walking trails and an outdoor classroom for students and visitors. The Refuge provides habitat for raptors, including ospreys and numerous waterfowl species.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities that we may address in the CCP. During public scoping, we may identify additional issues.

We request input as to which issues affecting management or public use should be addressed during the planning process. We are especially interested in receiving public input in the following areas:

(a) What do you value most about this Refuge?

(b) What problems or issues do you see affecting management of this Refuge?

(c) What changes, if any, would you like to see in the management of this Refuge?

We provide the above questions for your optional use. We have no requirement that you provide information; however, any comments the planning team receives will be used as part of the planning process.

Public Meetings

We will give the public an opportunity to provide input at a public meeting to be scheduled for fall 2009. You can obtain the schedule from the planning team leader or the Refuge office (see **ADDRESSES**). Exact dates and times for these public meetings are yet to be determined, but will be announced via local and State media, the Region 6 planning Web site at *http://www.fws.gov/mountain-prairie/planning/ccp.htm,* and a planning update. If you would like to be notified of this meeting by mail, please provide your mailing address to the planning team leader (**ADDRESSES**). There will be additional opportunities to provide public input once we have prepared a draft CCP.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 8, 2009.

Noreen E. Walsh,

Deputy Regional Director.

[FR Doc. E9–23551 Filed 9–29–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2009–N163; 80221–1113–0000–D3]

Endangered and Threatened Wildlife and Plants; Draft Post-Delisting Monitoring Plan for the Brown Pelican (Pelecanus occidentalis)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft post-delisting monitoring plan for the brown pelican (*Pelecanus occidentalis*) (draft PDM Plan, Draft Monitoring Plan). The Endangered Species Act (Act) requires that we implement a system, in cooperation with the States, to monitor effectively, for at least 5 years, the status of all species that have been recovered and no longer need the protection afforded by the Act (*i.e.* delisted). The brown pelican has been proposed to be removed from the Federal List of Threatened and Endangered Wildlife and Plants due to recovery. If the brown pelican is removed from the list, we propose to monitor the status of the brown pelican over a 10-year period from 2010 through 2020, through annual evaluation of information collected by the States of California, Texas, and Louisiana; the Commonwealth of Puerto Rico and the U.S. Virgin Islands in the West Indies; Mexico; other partners; and the Service.

DATES: To ensure consideration, please send your written comments by October 30, 2009.

ADDRESSES: An electronic copy of the Draft Monitoring Plan will be available on the Internet at *http://www.fws.gov/Ventura.* Requests for copies of the Draft Monitoring Plan and submission of written comments or materials regarding the plan should be addressed to Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003. The Draft Monitoring Plan, reference materials, and submitted comments regarding the Draft Monitoring Plan will also be available for inspection, by appointment, during normal business hours at the above address. You may also submit electronic comments on the Draft Monitoring Plan to: *FW8pelicanmonitoring@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Michael McCrary, Listing and Recovery Coordinator, at the above address or at telephone 805–644–1766, extension 372. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On February 20, 2008, we published a proposed rule to remove the brown pelican from the Federal List of Endangered and Threatened Wildlife (List) due to recovery (73 FR 9408), with a 60-day comment period that closed on April 21, 2008. Our proposed rule concluded that the primary reason for severe declines in the brown pelican population in the United States, and for designating the species as endangered, was DDT contamination in the 1960s and early 1970s. Banning of DDT, along with other recovery actions, has resulted in increased population numbers and reproductive success, and information now indicates that major threats to brown pelicans have been reduced, managed, or eliminated. We are currently reviewing comments we received on the proposed rule and preparing responses as appropriate.

Section 4(g) of the Act requires the Secretary of the Interior to implement a system in cooperation with the States to monitor effectively for not less than 5 years the status of any species that is delisted due to recovery. The intent of this monitoring is to determine whether the species should be proposed for relisting under the normal listing procedures, relisted under the emergency listing authority of the Act, or kept off of the List because it remains neither threatened nor endangered.

Brown pelican populations currently listed under the Act breed along the coast of the Gulf of Mexico from Mississippi to Texas; along the Pacific Coast from southern California, south through Mexico into Central and South America; and in the West Indies (Shields 2002, pp. 2–4). Additional information about the brown pelican's biology and life history can be found in the Birds of North America, No. 609 (Shields 2002, pp. 1–36).

The brown pelican draft PDM Plan was developed in cooperation with the State resources agencies of California, Louisiana, and Texas and the Commonwealth of Puerto Rico. If the brown pelican is removed from the Federal List of Threatened and Endangered Wildlife and Plants, our Ventura Fish and Wildlife Office will be the lead office responsible for this monitoring effort, and will coordinate all phases of implementation of the plan and ensure that monitoring

requirements outlined within the plan are accomplished. The draft PDM Plan proposes to conduct monitoring annually for at least 10 years. Post-delisting monitoring of the brown pelican will consist primarily of annual collection of information on colony occupancy and number of nesting pairs. Information on contaminants will also be collected at 5-year intervals beginning with the first year.

Post-delisting monitoring of the brown pelican will be focused along the Gulf coast of Louisiana and Texas; the Commonwealth of Puerto Rico and the U.S. Virgin Islands in the West Indies; the Pacific coast of southern California and Baja California, Mexico; and the Gulf of California. We will be monitoring these areas because: (1) Existing population data are available for these areas for comparison with data to be collected during post-delisting monitoring; (2) these populations were among some of the largest (outside of those in Peru) prior to listing (73 FR 9408); and (3) these populations suffered the greatest declines in productivity and abundance that led to the listing of the species. Additionally, we have no evidence that brown pelicans outside these areas ever suffered declines in response to persistent organic pesticides. We are also interested in any information that may suggest a new or increasing threat that may impact the brown pelican in other parts of its range proposed for delisting under the Act but not covered by this Draft Monitoring Plan.

Request for Public Comments

We solicit written comments on the Draft Monitoring Plan described in this notice. All comments received by the date specified above will be considered in development of a final post-delisting monitoring plan for the brown pelican. We will take into consideration the relevant comments, suggestions, or objections that we receive by the comment due date indicated above in the **DATES** section. These comments, suggestions, or objections, and any additional information we receive, may lead us to adopt a final PDM Plan that differs from this draft PDM Plan. Comments merely stating support or opposition to the draft PDM Plan without providing supporting data are not as helpful. We particularly seek comments concerning:

(1) Information and data on contaminants from brown pelicans or other seabirds near pelican nesting colonies throughout the range of the brown pelican that may affect our selection of the areas to be monitored;

(2) The appropriateness of assaying contaminants in brown pelicans and/or their eggs every 5 years and reasons, if any, for increasing or decreasing the frequency of analysis; and

(3) The appropriateness of the areas selected for monitoring and reasons, if any, for modifying the survey areas, including information related to the number of nesting pairs and population trends of brown pelicans outside the survey areas in the Draft Monitoring Plan.

Public Availability of Comments

Before including your address, phone number, electronic mail address, or other personal identifying information in your comment, you should be aware that your entire document—including your personal identifying information—may be publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: The authority for this action is the Act (16 U.S.C. 1531 *et seq.*).

Alexandra Pitts,

Acting Regional Director, Fish and Wildlife Service, Pacific Southwest Region.

[FR Doc. E9–23557 Filed 9–29–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2009–N0117; 40136–1265–0000–S3]

Black Bayou Lake National Wildlife Refuge, Ouachita Parish, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for Black Bayou Lake National Wildlife Refuge (Black Bayou Lake NWR) for public review and comment. In this Draft CCP/EA, we describe the alternative we propose to use to manage this refuge for the 15 years following approval of the final CCP.

DATES: To ensure consideration, we must receive your written comments by October 30, 2009.

ADDRESSES: Send comments, questions, and requests for information to: Ms. Tina Chouinard, Refuge Planner, Fish and Wildlife Service, 6772 Highway 76 South, Stanton, TN 38069, or by e-mail to: *tina_chouinard@fws.gov.* The Draft CCP/EA is available on compact disk or in hard copy. The Draft CCP/EA may also be accessed and downloaded from the Service's Internet Site: *http://southeast.fws.gov/planning.*

FOR FURTHER INFORMATION CONTACT: Ms. Tina Chouinard; telephone: 731–432–0981.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Black Bayou Lake NWR. We started the process through a notice in the **Federal Register** on May 8, 2008 (73 FR 26139).

Background

The CCP Process

The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee) (Improvement Act), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act.

Black Bayou Lake NWR is a unit of the North Louisiana National Wildlife Refuge Complex. Other refuges in the Complex include: D'Arbonne, Upper Ouachita, Handy Brake, and Red River, and the Louisiana Wetlands Management District. Each refuge has unique issues and has had separate planning efforts and public involvement.

Black Bayou Lake NWR, established in 1997, is 3 miles north of the city of Monroe, just east of Highway 165 in Ouachita Parish, Louisiana. It contains 4,522 acres of wetland, bottomland hardwood, and upland mixed pine/

hardwood habitats. Although the suburban sprawl of the city of Monroe abuts much of its boundary, the refuge itself represents many habitat types and is home to a diversity of plants and animals. Black Bayou Lake NWR is situated in the Mississippi Flyway, the Mississippi Alluvial Valley Bird Conservation Region, and the Lower Mississippi River Ecosystem. The refuge plays an important role regionally in fulfilling the goals of the National Wildlife Refuge System. Its close proximity to the city of Monroe gives the public opportunities to participate in educational programs that promote wildlife stewardship.

Black Bayou Lake NWR was established for ''* * * the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions * * *'' (16 U.S.C. 3901 (b)) (Wetlands Resources Act).

The central physical feature of the refuge is the lake itself. Black Bayou Lake, consisting of approximately 1,500 acres, is studded with bald cypress and water tupelo trees. The western half of the lake is open and deeper, unlike the eastern side, which is thick with trees and emergent vegetation. The lake is owned by the city of Monroe, which manages the lake's water level as a secondary source of municipal water. The Service has a 99-year free lease on the lake and some of its surrounding land, consisting of a total of 1,620 acres. The refuge owns the remaining 2,902 acres, consisting of upland pine/hardwood and bottomland hardwood forests.

Significant issues addressed in this Draft CCP/EA include: (1) Managing for invasive species and species of special concern, such as the alligator snapping turtle; (2) managing mixed pine upland and bottomland hardwood forests; (3) land protection; (4) urban development and wildlife management; (5) maintaining the excellent environmental education and interpretation programs; and (6) increasing resources.

CCP Alternatives, Including Our Proposed Alternative

We developed three alternatives for managing the refuge and chose Alternative B as the proposed alternative. A full description of each alternative is in the Draft CCP/EA. We summarize each alternative below.

Alternative A—Current Management Direction (No Action Alternative)

Black Bayou Lake NWR is part of the Lower Mississippi River Ecosystem and is considered to be in the Mississippi Alluvial Valley Bird Conservation Region. As such, Black Bayou Lake NWR is a component of many regional and ecosystem conservation planning initiatives. Under Alternative A, we would continue management of the refuge at its current level of participation in these initiatives throughout the 15-year duration of the CCP. Current approaches to managing wildlife and habitats, protecting resources, and allowing for public use would remain unchanged.

The mix of habitats on the refuge, including bottomland hardwood and upland pine hardwood forests, would be restored and managed appropriately. We would continue to work with partners to acquire lands within the current refuge boundary. We would continue to provide habitat for native wildlife species, wintering waterfowl, and year-round habitat for nesting wood ducks. We would also maintain the current habitat mix to benefit other migratory birds. We would continue existing surveys to monitor long-term population trends and health of migratory and resident species.

We would work with volunteers to maintain the current public use and environmental education programs on the refuge. We would continue to serve the public and the Complex with a quality wildlife-dependent visitor services program.

Alternative B—Optimize Biological Program and Visitor Services (Proposed Alternative)

Under Alternative B, we would strive to optimize both our biological program and visitor services program. We would continue to provide habitat for resident wildlife species and would aim to increase our knowledge of migratory birds, reptiles, amphibians, invertebrates, and species of special concern, such as the alligator snapping turtle, by developing and implementing monitoring programs. We would use our resources to create and/or maintain a variety of habitats compatible with historic habitat types. Efforts to control invasive species would increase.

Under Alternative B, land acquisition, bottomland hardwood forest management, and resource protection would be intensified. In the Private Lands Program, we would work with private landowners on adjacent tracts to manage and improve habitats.

Under Alternative B, we would hire a fulltime law enforcement officer, a refuge operations specialist, a maintenance worker, and a park ranger (visitor services). With regard to cultural resources, including those of an archaeological or historical nature, within 15 years of CCP approval, we would develop and begin to implement a Cultural Resources Management Plan.

Public use and environmental education programs would be enhanced with the addition of two park rangers (visitor services and law enforcement). Within 3 years of CCP completion, we would develop a Visitor Services Plan to guide us in maintaining quality public use facilities and opportunities on the refuge.

Over the 15-year life of the CCP, we would increase environmental education and interpretation opportunities to emphasize the importance of the refuge's habitats and resources.

Alternative C—Minimize Management and Public Use Management

This alternative would minimize wildlife and habitat management and the public use program. Baseline inventorying and monitoring programs would be eliminated; monitoring for changes in trends would not be necessary to achieve the purposes of the refuge.

Public use would be maintained and monitored for impacts to wildlife. Fishing, environmental education, and wildlife observation and photography would be accommodated the same as under the No Action Alternative. Waterfowl hunting would be eliminated. Staffing would remain the same as under the No Action Alternative.

Next Step

After the comment period ends, we will analyze the comments and address them.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: July 13, 2009.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E9–23559 Filed 9–29–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2009–N141; 80221–1112–0000–F2]

Amendment of the Clark County Multiple Species Habitat Conservation Plan and Issuance of an Amended Incidental Take Permit, Clark County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS); and notice of public scoping meetings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are advising the public that we intend to gather information necessary to prepare an EIS, under the National Environmental Policy Act (NEPA), on the proposed amendment of the Clark County Multiple Species Habitat Conservation Plan (MSHCP) and Incidental Take Permit (ITP). The proposed amendment is being prepared under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. The Permittees are proposing to increase the amount of species habitat disturbance that is authorized under the existing MSHCP and ITP, expand the conservation program to minimize and mitigate for the increased disturbance, reduce the number of covered species, and revise the permit term of the MSHCP Amendment to 50 years. We provide this notice to obtain suggestions, comments, and useful information from other agencies and the public on the scope of the document, including the significant issues deserving of study, the range of alternatives, and the range of impacts to be considered.

DATES: Written comments must be received on or before October 30, 2009. Four public scoping meetings will be held on:

1. Monday, October 19, 2009, from 6 p.m. to 8 p.m., Las Vegas, NV.
2. Wednesday, October 21, 2009, from 6 p.m. to 8 p.m., Searchlight, NV.
3. Thursday, October 22, 2009, from 6 p.m. to 8 p.m., Henderson, NV.
4. Monday, October 26, 2009, from 6 p.m. to 8 p.m., Overton, NV.

ADDRESSES: Public meetings will be held at the following locations:

1. Monday, October 19, 2009, at the Clark County Library, Jewel Box Theater, 1401 East Flamingo Road, Las Vegas, NV 89119.
2. Wednesday, October 21, 2009, at the Searchlight Community Center, 200 Michael Wendell Way, Searchlight, NV 89046.
3. Thursday, October 22, 2009, at the PBS&J, 2270 Corporate Circle, Henderson, NV 89074.
4. Monday, October 26, 2009, at the Moapa Valley Community Center, 320 North Moapa Valley Boulevard, Overton, NV 89040.

Information, written comments, or questions related to the preparation of the EIS and the NEPA process should be submitted to Robert D. Williams, Nevada Fish and Wildlife Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130, facsimile: 702–515–5231.

FOR FURTHER INFORMATION CONTACT: Jeri Krueger, Habitat Conservation Planning Coordinator, Nevada Fish and Wildlife Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130; telephone: 702–515–5230.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Service intends to gather information necessary to determine the scope of issues and impacts, and to formulate alternatives for the EIS related to the issuance of an amended ITP to Clark County, Nevada; the cities of Boulder City, Henderson, Las Vegas, Mesquite, and North Las Vegas, Nevada (Cities); and the Nevada Department of Transportation (NDOT).

Background

Section 9 of the Endangered Species Act, as amended (Act; 16 U.S.C. 1531 *et seq.*) and Federal regulations prohibit the ''take'' of a fish or wildlife species listed as endangered or threatened. Under the Act, the following activities are defined as take: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed wildlife species, or attempt to engage in such conduct (16 U.S.C. 1532). However, under section 10(a)(1)(B) of the Act, we may issue permits to authorize ''incidental take'' of listed wildlife species. Incidental take is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 50 CFR 17.32, respectively.

Clark County, the Cities, and NDOT currently hold a permit for incidental take of 78 covered species (Permit # TE034927–0), including the Federally threatened desert tortoise (*Gopherus agassizii*) and the Federally endangered southwestern willow flycatcher (*Empidonax traillii extimus*), by the development of up to 145,000 acres in Clark County, Nevada. The Notice of Availability (65 FR 57366) for the Final HCP and EIS was published on September 22, 2000. The permit was effective as of February 1, 2001, and expires on January 31, 2031. Activities included in the MSHCP for the permitted projects include, but are not limited to, residential and commercial development, utility and transportation facilities and other capital improvements and operations activities, flood control, development of urban parks and recreation facilities.

Multiple Species Habitat Conservation Plan Amendment

Clark County, the Cities, and NDOT intend to request a permit amendment for the incidental take of covered species on up to 215,000 additional acres in Clark County, Nevada. Activities proposed to be covered by the MSHCP amendment are not likely to change from the existing MSHCP, and may include, but are not limited to, residential and commercial development, utility and transportation facilities and other capital improvements and operations activities, flood control, and development of urban parks and recreation facilities.

Section 10(a)(1)(B) of the Act provides for permitting non-Federal entities to incidentally take threatened and endangered species when the entity submits a conservation plan that specifies:

(i) The impact which will likely result from such taking;

(ii) What steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps;

(iii) What alternative actions to such taking the applicant considered and the reasons why such alternatives are being utilized; and

(iv) Such other measures the Service may require as being necessary or appropriate for purposes of the plan.

If the Service finds, after opportunity for public comment, with respect to a permit application and the related conservation plan that:

(i) The taking will be incidental;

(ii) The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;

(iii) The applicant will ensure that adequate funding for the plan will be provided;

(iv) The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild; and

(v) The measures, if any, required under subparagraph (A)(iv) will be met; and the Service has received such other assurance as the Service may require that the plan will be implemented, the Service shall issue the permit. The permit shall contain such terms and conditions as the Service deems necessary or appropriate to carry out the purposes of this paragraph, including, but not limited to, such reporting requirements as the Service deems necessary for determining whether such terms and conditions are being complied with.

The need for this action is based on the potential that activities proposed by Clark County, the Cities, and NDOT on lands under their respective jurisdictions could result in take of covered species, thus requiring an ITP. The proposed permit would allow authorized incidental take that is consistent with the conservation guidelines in the amended MSHCP.

Clark County, the Cities, and NDOT propose to develop and implement an amended MSHCP, as required by section 10(a)(2)(A) of the Act. The MSHCP would provide measures to minimize and mitigate the effects of the taking on the covered species and their habitats. The amended MSHCP would provide long-term protection for the covered species and key natural communities by maintaining or improving the habitat conditions and ecosystem functions necessary for their survival, and by ensuring that any incidental take of the covered species would not appreciably reduce the likelihood of the survival and recovery of those species in the wild. The purpose of the scoping meetings is to solicit input from the public on the issues and alternatives that should be addressed in the EIS. We will brief the public on the background of the MSHCP, alternative proposals under consideration for the draft EIS, and our role, as well as on the steps that we will take to develop the draft EIS for this conservation planning effort. At the scoping meeting, there will be an opportunity for the public to ask questions and also to provide written comments.

Clark County, the Cities, and NDOT propose that the following species that may occur within the proposed planning area will be included as covered species: desert tortoise, southwestern willow flycatcher, Las Vegas buckwheat (*Eriogonum corymbosum var. nilesii*), Yuma clapper rail (*Rallus longirostris yumanensis*), yellow-billed cuckoo (*Coccyzus americanus*), and Las Vegas bearpoppy (*Arctomecon californica*). Clark County, the Cities, and NDOT propose to reduce the total number of covered species, under the existing permit, but may also seek to address and cover additional rare and/or sensitive species, in addition to the six species listed above, that have some likelihood to occur within the planning area. The existing incidental take permit is for 78 species in Clark County, NV. Should any of the unlisted covered wildlife species become listed under the Act during the term of the permit, and the Service finds the species are adequately conserved by the amended MSHCP, take authorization for those species would become effective upon listing. Species may be added or deleted from the list of proposed covered species during the course of development of the MSHCP, based on further analysis, new information, agency consultation, and public comment. Numerous other listed and sensitive species for which Clark County, the Cities, and NDOT do not seek permit coverage may also benefit from the conservation measures to be included in the MSHCP through protection of similar or overlapping habitat conditions and ecosystem functions.

The MSHCP Amendment planning area includes all of Clark County, which encompasses about 5 million acres. Approximately 87 percent of Clark County is Federally managed, 3 percent is managed by State and local governments, and 10 percent is privately owned.

Environmental Impact Statement

An EIS will be prepared in compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) (NEPA). The EIS will consider the proposed action, the issuance of a section 10(a)(1)(B) permit amendment under the Act, No Action (no permit amendment), and a reasonable range of alternatives. A detailed description of the impacts of the proposed action and each alternative will be included in the EIS.

The proposed action and alternatives will be evaluated against the No Action alternative, which assumes that no changes or amendments will be made to the existing MSHCP and the existing permit will remain in effect. Several alternatives will be considered and analyzed, representing varying levels of conservation and impacts. The alternatives to be considered for analysis in the EIS may include: Variations in the scope of covered activities; variations in the location, amount, and type of conservation; variations in permit duration; or a combination of these elements. The EIS will also identify potentially significant direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, socioeconomics, and other environmental issues that could occur with the implementation of the proposed actions and alternatives. For all potentially significant impacts, the EIS will identify avoidance, minimization, and mitigation measures to reduce these impacts, where feasible, to a level below significance.

Public Comments

The primary purpose of the scoping process is to identify important issues and alternatives raised by the public related to the proposed action. Written comments from interested parties are welcome to ensure that the full range of issues related to the permit request is identified. Comments will only be accepted in written form. You may submit written comments by mail or facsimile transmission (*see* **ADDRESSES**). Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Review of the EIS will be conducted in accordance with the requirements of NEPA, Council on Environmental Quality Regulations (40 CFR 1500–1508), the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), other applicable regulations, and the Service's procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS.

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in public meetings should contact Jeri Krueger (*see* **FOR FURTHER INFORMATION CONTACT**) as soon as possible. To allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this

proposed action is available in alternative formats upon request.

Alexandra Pitts,

Pacific Southwest Region.

[FR Doc. E9–23556 Filed 9–29–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Impact Statements; Comprehensive Trail Management Plan for Cuyahoga Valley National Park, OH

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement for Comprehensive Trail Management Plan for Cuyahoga Valley National Park, OH.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the National Park Service (NPS) is announcing its intent to prepare an environmental impact statement (EIS) for a comprehensive trail management plan (TMP) for the Cuyahoga Valley National Park (Park). The TMP will evaluate alternatives for long-term development, management, sustainability, and accessibility of Park trails for current and new users as an integral part of a larger regional trail system. Two metropolitan park districts with significant park land holdings and trail networks—Cleveland Metroparks (CMP) and Metro Parks, Serving Summit County (MPSSC)—have agreed to be cooperators in the preparation of the TMP/EIS.

DATES: To be most helpful to the scoping process, comments should be received within 45 days from the date this notice is published in the **Federal Register**.

ADDRESSES: Information will be available for public review at Park headquarters located at 15610 Vaughn Road, Brecksville, Ohio 44141, phone (216) 524–1497. The NPS will also make background information and information on the time and location of public meetings available to the public, formally solicit input on the TMP/EIS, and conduct public meetings through the NPS Planning, Environment and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov/cuva,* the Park's Web site at *http://www.nps.gov/cuva,* and local newspapers.

To facilitate sound analysis of environmental impacts, the NPS is gathering information necessary for the preparation of the TMP/EIS. Suggestions on environmental issues to be analyzed and alternatives to consider are being sought from other Agencies, tribes, organizations, and the public. Comments and participation in this scoping process are invited and encouraged. Additionally, any input received from stakeholders or the general public regarding the comprehensive TMP prior to the publication of this notice will be fully considered during this planning process.

If you wish to comment on the scoping materials or on any other issues associated with the TMP/EIS, you may submit your comments by any one of several methods. You may submit your comments online through the PEPC Web site provided above. Once on the PEPC Web site, click on the link titled ''Comprehensive Trail Management Plan.'' You may also mail comments to the NPS at the contact address provided above.

Before including your address, telephone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment (including your personal identifying information) may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will make all submissions from organizations or businesses, from individuals identifying themselves as representatives or officials, or organizations or businesses available for public inspection in their entirety.

Interested Agencies and organizations are also invited to arrange meetings to provide input directly. Such meetings can be arranged by contacting the Park at the address and telephone below.

FOR FURTHER INFORMATION, CONTACT: For information concerning the scope of the TMP/EIS and to arrange Agency meetings, requests should be directed to: Kevin Skerl, Ecologist, 15610 Vaughn Road, Brecksville, Ohio 44141, e-mail: *kevin_skerl@nps.gov*; phone: 330–650–5071, Ext. 4.

SUPPLEMENTARY INFORMATION: The Act of December 27, 1974 (16 U.S.C. 460ff *et. seq.*), established Cuyahoga Valley National Recreation Area (now Cuyahoga Valley National Park; Pub. L. 106–291 § 149) to preserve the scenic, natural, and historic setting of the Cuyahoga Valley while providing for the recreational and educational needs of the visiting public. The Park consists of approximately 33,000 acres located between the cities of Cleveland and Akron in Ohio. The Park is among the most visited national parks, with 3 million visitors per year. The primary recreational resource is the Park's trail system. More than 125 miles of trails are available for use. Hiking, biking, and horseback riding are common activities. The trail system includes the historic Ohio & Erie Canal Towpath Trail that passes through the entire park and extends further into the Ohio & Erie Canal National Heritage Corridor. A portion of Ohio's Buckeye Trail also passes through the Park.

The NPS has, for the most part, implemented a 1985 trail plan. A new, updated TMP is needed to reflect current issues and opportunities, including the need to: Reexamine trails proposed in the 1985 plan that have not yet been built; rehabilitate or replace trails that have been partially obliterated by severe flood events; modify trail alignments; implement new best management practices; address numerous calls for connections to community trail systems; and evaluate new trail segments and new trail uses.

Only 60 percent of the Park is under federal protection; over 4,700 acres are owned and managed by the CMP and over 3,300 acres are owned and managed by the MPSSC. Because the CMP and the MPSSC are public land-holding agencies within the boundary of the Park, close coordination with the Park on a broad range of cultural and natural resource management and visitor services activities has occurred over the past 30 years, including the development of the Park's first trail plan in 1985.

Dated: September 21, 2009.

David N. Given,

Acting Regional Director, Midwest Region.

[FR Doc. E9–23547 Filed 9–29–09; 8:45 am]

BILLING CODE 4310–MA–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of public meeting for the National Park Service Alaska Region's Subsistence Resource Commission (SRC) program.

SUMMARY: The Aniakchak National Monument Subsistence Resource Commission (ANIA SRC) will meet to develop and continue work on National Park Service (NPS) subsistence hunting program recommendations and other related subsistence management issues. This meeting is open to the public and will have time allocated for public testimony. The public is welcomed to

present written or oral comments to the SRC. This meeting will be recorded and meeting minutes will be available upon request from the park superintendent for public inspection approximately six weeks after the meeting. The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act.

FOR FURTHER INFORMATION ON THE ANIA SRC MEETING CONTACT: Mary McBurney, Subsistence Manager, Tel. (907) 235–7891, Address: 240 W. 5th Avenue, Suite 236, Anchorage, AK 99501or Clarence Summers, Subsistence Manager, Tel. (907) 644–3603.

ANIA SRC Meeting Date and Location: The ANIA SRC meeting will be held on Monday, October 26, 2009, from 11 a.m. to 3 p.m. at the Chignik Lake Subsistence Building in Chignik Lake, AK. The ANIA SRC meeting may end early if all business is completed.

The proposed meeting agenda for each meeting includes the following:

1. Call to order.
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Approval of Minutes.
5. Review and Approve Agenda.
6. SRC Purpose and Status of Membership.
7. SRC Member Reports.
8. Park Subsistence Manager's Report.
9. Subsistence Uses of Horns, Antlers, Bones and Plants EA Update.
10. Federal Subsistence Board Update.
11. Alaska Board of Game Update.
12. Old Business.
13. New Business.
14. Public and other Agency Comments.
15. Set Time and Place for next SRC Meeting.
16. Adjournment.

SUPPLEMENTARY INFORMATION: The ANIA SRC meeting location and date may need to be changed based on weather or local circumstances. If the meeting date and location are changed, a notice will be published in local newspapers and announced on local radio stations prior to the meeting date.

Sue E. Masica,

Regional Director, Alaska.

[FR Doc. E9–23549 Filed 9–29–09; 8:45 am]

BILLING CODE 4312–HE–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–463 (Final) and 731–TA–1159 (Final)]

Certain Oil Country Tubular Goods From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–463 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1159 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of certain oil country tubular goods, primarily provided for in subheadings 7304.29, 7305.20 and 7306.29 of the Harmonized Tariff Schedule of the United States.[11]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* September 15, 2009.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187 or *fred.ruggles@usitc.gov*), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of certain oil country tubular goods, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on April 8, 2009, by Maverick Tube Corporation, Houston, TX; United States Steel Corporation, Dallas, TX; V&M Star LP, Houston, TX; V&M Tubular Corporation of America, Houston, TX; TMK IPSCO, Camanche, IA; Evraz Rocky Mountain Steel, Pueblo, CO; Wheatland Tube Corp., Wheatland, PA; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC, Pittsburgh, PA.

The Department of Commerce has postponed its preliminary determination as to whether imports of certain oil country tubular goods from China are being, or are likely to be sold, in the United States at less than fair value.[22] For purposes of efficiency, the Commission is scheduling the final phase of the antidumping investigation concerning China so that it may proceed concurrently with the Commission's countervailing duty investigation concerning China.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these

[11] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (''API'') or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. Excluded from the scope of the investigation are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.''

[22] Certain Oil Country Tubular Goods from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigations, 74 FR 43098, August 26, 2009. Commerce is scheduled to make its preliminary determinations by November 4, 2009.

investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on November 16, 2009, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on December 1, 2009, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 25, 2009. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 30, 2009, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is November 23, 2009. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules.

The deadline for filing posthearing briefs is December 8, 2009; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before December 8, 2009. On December 23, 2009, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 28, 2009, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: September 25, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–23562 Filed 9–29–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–470–471 and 731–TA–1169–1170 (Preliminary)]

Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From China and Indonesia

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701–TA–470–471 and 731–TA–1169–1170 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and Indonesia of certain coated paper suitable for high-quality print graphics using sheet-fed presses, provided for in subheadings 4810.13.11, 4810.13.19, 4810.13.20, 4810.13.50, 4810.13.60, 4810.13.70, 4810.14.11, 4810.14.19, 4810.14.20, 4810.14.50, 4810.14.60, 4810.14.70, 4810.19.11, 4810.19.19, 4810.19.20, 4810.22.10, 4810.22.50, 4810.22.60, 4810.22.70, 4810.29.10, 4810.29.50, 4810.29.60, and 4810.29.70 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold

in the United States at less than fair value and alleged to be subsidized by the Governments of China and Indonesia. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by November 9, 2009. The Commission's views are due at Commerce within five business days thereafter, or by November 17, 2009.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* September 23, 2009.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on September 23, 2009, by Appleton Coating, LLC, Kimberly, WI; NewPage Corp., Mianisburg, OH; Sappi Fine Paper North America, Boston, MA; and the United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Service Workers International Union (''USW'').

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register.** Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 14, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Chris Cassise (202–708–5408) not later than October 9, 2009, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 19, 2009, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 25, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–23563 Filed 9–29–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Office on Violence Against Women; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Expedited, Emergency Review: Office on Violence Against Women Solicitation Template.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for expedited, emergency review and approval in accordance with the Paperwork Reduction Act of 1995 and emergency clearance procedures under 5 CFR 1320.13. The proposed information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 30 days for public comment until October 30, 2009.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of

Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed collection.

(2) *Title of the Form/Collection:* OVW Solicitation Template.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–XXXX. U.S. Department of Justice, OVW.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The affected public includes applicants to OVW grant programs authorized under the Violence Against Women Act of 1994 and reauthorized and amended by the Violence Against Women Act of 2000 and the Violence Against Women Act of 2005. These include States, territory, Tribe or unit of local government; State, territorial, tribal or unit of local governmental entity; institutions of higher education including colleges and universities; tribal organizations; Federal, State, tribal, territorial or local courts or court-based programs; State sexual assault coalition, State domestic violence coalition; territorial domestic violence or sexual assault coalition; tribal coalition; tribal organization; community-based organizations and non-profit, nongovernmental organizations. The purpose of the solicitation template is to provide a framework to develop program-specific announcements soliciting applications for funding. A program solicitation outlines the specifics of the funding program; describes the requirements for eligibility; instructs an applicant on the necessary components of an application under a specific program (*e.g.* project activities and timeline, proposed budget): And provides registration dates, due dates, and instructions on how to apply within the designated application system.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that information will be collect annually from the approximately 1800 respondents (applicants to the OVW grant programs). The public reporting burden for this collection of information is estimated at up to 30 hours per application. The 30-hour estimate is based on the amount of time to prepare a narrative, budget and other materials for the application as well to coordinate with and develop a memorandum of understanding with requisite project partners.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 54,000 hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: September 24, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–23505 Filed 9–29–09; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Parole Commission

Public Announcement; Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) [5 U.S.C. Section 552b]; Meeting Notice

DATE AND TIME: 11:30 a.m., Tuesday, October 6, 2009.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed.

MATTERS CONSIDERED: The following matter will be considered during the closed meeting:

Petition for reconsideration involving one original jurisdiction case pursuant to 28 CFR 2.27.

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission. (301) 492–5990.

Dated: September 24, 2009.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. E9–23595 Filed 9–29–09; 8:45 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Clean Diesel V

Notice is hereby given that, on August 25, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Clean Diesel V (''Clean Diesel V'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, China Automotive Engineering Research Institute Co. Ltd. (CAERI), Chongqing, PEOPLE'S REPUBLIC OF CHINA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Clean Diesel V intends to file additional written notifications disclosing all changes in membership.

On January 10, 2008, Clean Diesel V filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 25, 2008 (73 FR 10064).

The last notification was filed with the Department on June 17, 2009. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on August 3, 2009 (74 FR 38474).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–23401 Filed 9–29–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on High Efficiency Dilute Gasoline Engine II

Notice is hereby given that, on August 25, 2009, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on High-Efficiency Dilute Gasoline Engine II (''HEDGE II''), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Diamond Electric Corporation, Dundee, MI, has been added as a party to the venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HEDGE II intends to file additional written notifications disclosing all changes in membership.

On February 19, 2009, HEDGE II filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 2, 2009 (74 FR 15003).

The last notification was filed with the Department on June 17, 2009. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 3, 2009 (74 FR 38473).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–23402 Filed 9–29–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Gamma Radiation Exposure Records; Correction

ACTION: Correction notice.

SUMMARY: On September 23, 2009 (74 FR 48601), the Mine Safety and Inspection Service published a notice document soliciting comments concerning the extension of information collection related to Gamma Radiation Exposure Records. This document corrects a typographical error that appeared in that document.

FOR FURTHER INFORMATION CONTACT: John Rowlett, *Rowlett.John@dol.gov*, (202) 693–9827.

Correction

On page 48602, in the first column, in the ''Background'' section, in the second paragraph, the word ''lunch'', should have read ''lung''.

Dated at Arlington, Virginia, this 25th day of September, 2009.

John Rowlett,

Director, Management Services Division.

[FR Doc. E9–23548 Filed 9–29–09; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Centennial Challenges 2009 Astronaut Glove Challenge

AGENCY: National Aeronautics and Space Administration (NASA).

Notice: (09–086).

ACTION: Notice.

SUMMARY: This notice is issued in accordance with 42 U.S.C. 2459f-1 (d). The 2009 Astronaut Glove Challenge is now scheduled, and teams that wish to compete may now register. The NASA Centennial Challenges Program is a program of prize contests to stimulate innovation and competition in technologies of interest and value to NASA and the nation. The 2009 Astronaut Glove Challenge is a prize contest designed to promote the development of glove materials and joint technology, resulting in a highly dexterous and flexible glove that can be used by astronauts over long periods of time for space or planetary surface excursions.

The 2009 Astronaut Glove Challenge is being administered by Volanz Aerospace Inc. for NASA. The $400,000USD prize purse is funded by NASA. This event will be conducted in a format which brings all competitors to a single location for a ''head to head'' competition.

DATES: The 2009 Astronaut Glove Challenge will be held on November 18–19, 2009.

Location: The 2009 Astronaut Glove Challenge will be held at United States Astronaut Hall of Fame in Kennedy Space Center, Florida (near the Kennedy Space Center Visitors Center). For more information regarding the location, please see *www.kennedyspacecenter.com/astronaut-hall-of-fame.aspx*.

FURTHER INFORMATION: To register for and get additional information regarding the 2009 Astronaut Glove Challenge including Rules, Team Agreement, eligibility, and prize criteria, visit: *www.astronaut-glove.us*, or contact Mr. Alan Hayes at Volanz Aerospace Inc., 1209 Sheridan Drive, Owings, MD 20736–3131. *Phone:* 301–812–0450 or e-mail: *ahayes@juno.com*.

If you have questions or comments regarding the NASA Centennial Challenges Program, please visit: *www.ipp.nasa.gov/cc* or contact Mr. Andrew Petro, Innovative Partnerships Program Office, NASA Headquarters, 300 E Street, SW., Washington, DC 20546–0001. *E-mail: andrew.j.petro@nasa.gov*.

SUPPLEMENTARY INFORMATION: The 2009 Astronaut Glove Challenge prizes will go to the team(s) that can design and manufacture a glove that successfully completes each of the competition tests and best-performs within these specified parameters. The First place, Second place, and Best Thermal Micrometeoroid Garment prizes are $250,000, $100,000, and $50,000, respectively.

In case of individuals, prizes can only be awarded to U.S. Citizens or permanent residents. In the case of corporations or other entities, prizes can only be awarded to those that are incorporated in and maintain a primary place of business in the United States.

Dated: September 24, 2009.

Douglas A. Comstock,

Director, Innovative Partnerships Program.

[FR Doc. E9–23490 Filed 9–29–09; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09–085)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed revisions to an existing Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the National Aeronautics and Space Administration is issuing public notice of its proposal to modify its previously noticed system of records: This notice publishes updates of those systems of records as set forth below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: Submit comments within 30 calendar days from the date of this publication.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA–PAOfficer@nasa.gov*.

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA–PAOfficer@nasa.gov*.

SUPPLEMENTARY INFORMATION:

Modifications of the NASA systems of records include: Clarification of categories of individuals on whom records are maintained, how the records are retrieved, the safeguards for protecting the records, and records source categories; update of routine uses to reflect new legislation; and update of system and subsystem managers' titles.

Changes for specific NASA systems of records are set forth below:

Aircraft Crewmembers' Qualifications and Performance Records/NASA 10ACMQ: A separate records retention schedule has been added for historically significant records on crewmembers who are astronauts.

Biographical Records for Public Affairs/NASA 10BRPA: Updated to change the title of the system manager.

National Aeronautics and Space Administration Foreign National Management System/NASA 10FNMS: Updated to clarify categories of individuals covered by the system, and to reflect new location and office name change of the system manager.

G*overnment Motor Vehicle Operations Permit Records/NASA 10GMVP:* Updated to change system location.

Inspector General Investigations Case Files/NASA 10IGIC: Updated routine uses to reflect changes due to enactment of two statues—the Inspectors General (IG) Reform Act of 2008 that established the Council of the Inspectors General on Integrity and Efficiency, replacing the President's Council on Integrity and Efficiency; and the American Recovery and Reinvestment Act that created an oversight board to coordinate and conduct oversight of spending of recovery act funds and to which IGs are to make reports.

Security Records System/NASA 10SECR: Updated to reflect an office name change for the system manager.

Exchange Records on Individuals/NASA 10XROI: Updated to more adequately reflect descriptions of individuals of records and categories of records covered by the system, as well to update titles of subsystem managers.

Integrated Financial Management (IFM) Program—Core Financial System/NASA 10IMF1: Retention and Disposal description is updated to change the name of the IT system in which the records are stored. Record Source Categories are updated to also reflect source system changes. System Manager updated to reflect new manager.

NASA Systems of Records, Appendix A: Updated to reflect a new mailing address for the NASA Office of Inspector General post in New Jersey.

Submitted by:

Bobby L. German,

NASA Chief Information Officer (Acting).

NASA 10ACMQ

SYSTEM NAME:

Aircraft Crewmembers' Qualifications and Performance Records.

SECURTIY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 11 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on Crewmembers of NASA aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains: (1) Records of experience, and currency, (*e.g.*, flight hours day, night, and instrument), types of approaches and landings, crew position, type of aircraft, flight check ratings and related examination results, and training performed; and (2) flight itineraries and passenger manifests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The following are routine uses: (1) In cases of accident investigations, including mishap and collateral investigations, access to this system of records may be granted to Federal, State, or local agencies or to foreign governments; (2) to Federal, State, or local agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs, or to Federal, State, or local agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) public or press releases either by prior approval of the individual, or in the case of public release of information from mishap or collateral investigation reports, pursuant to NASA regulations at 14 CFR part 1213; and (4) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by aircrew identifier.

SAFEGUARDS:

Computerized records access is limited to only users with a business need for access and user accounts employ secure user authentication; non-electronic records are maintained in accordance with the requirements and procedures which appear at 14 CFR 1212.605, utilizing locked file cabinets and/or secured rooms.

RETENTION AND DISPOSAL:

Records for other than astronauts are maintained in Agency files and destroyed 5 years after crewmember separates from NASA in accordance with NASA Records Retention Schedules (NRRS), Schedule 8 Item 32. Records of crewmembers who are astronauts are permanent and will be transferred to the National Archives in accordance with NRRS, Schedule 8 Item 34.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Aircraft Management Office, Location 1. Subsystem Managers: Deputy Chief, Flight Control and Cockpit Integration Branch, Location 2;

Chief, Dryden Research Aircraft Operations Division, Location 3; Head, Aeronautical Programs Branch, Location 4; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Office, Location 6; Chief, Flight Operations and Engineering Branch, Location 7; Chief, Aircraft Operations Office, Location 8; Chief, Aircraft Operations, Location 9; Chief, Contract Management, Location 10; Aircraft Management Officer, Location 11 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for requesting amendments to records and contesting record contents appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals, training schools or instructors, medical units or doctors.

NASA 10BRPA

SYSTEM NAME:

Biographical Records for Public Affairs.

SECURTIY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1, 3 through 9 inclusive, and Locations 11 and 18, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in Agency programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current biographical information about the individuals with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or the individual's activity with NASA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is compiled, updated, and maintained at NASA Centers for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving participation in a major NASA activity.

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The following are routine uses: These records are made available via the Internet to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by individual's name.

SAFEGUARDS:

Because the records are a matter of public information, no safeguard requirements are necessary.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed when there is no longer a potential for public interest in them in accordance with NASA Records Retention Schedules, Schedule 1, Item 40.

SYSTEM MANAGER(S) AND ADDRESS:

Director, News Services Division, Office of Public Affairs, Location 1. Subsystem Managers: Public Affairs Officer at Locations 3 through 9 and Location 11; Manager, Customer Satisfaction and Communication Office, Location 18; as set forth in Appendix A.

NOTIFICATION PROCEDURE:

An individual desiring to find out if a Biographical System of Records contains a record pertaining to him/her should call, write, or visit the Public Affairs Office at the appropriate NASA Center.

RECORD ACCESS PROCEDURES:

An individual may request access to his/her record by calling, writing, or visiting the Public Affairs Office at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

CONTESTING RECORD PROCEDURES:

The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his/her biographical record to his/her own satisfaction.

RECORD SOURCE CATEGORIES:

Information in the biography of an individual in the system of records is provided voluntarily by the individual generally with the aid of a form questionnaire.

NASA 10 FNMS

SYSTEM NAME:

National Aeronautics and Space Administration Foreign National Management System.

SECURTIY CLASSIFICATION:

None.

SYSTEM LOCATION:

The centralized data system is located at the Extranet Security Portals Group, 2720 Prosperity Avenue, Suite 30, Fairfax, VA 22031

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on all non-U.S. citizens, to include Lawful Permanent Residents seeking access to NASA facilities, resources, laboratories, contractor sites, Federally Funded Research and Development Centers or NASA sponsored events for unclassified purposes to include employees of NASA or NASA contractors; prospective NASA or NASA contractor employees; employees of other U.S. Government agencies or their contractors; foreign students at U.S. institutions; officials or other persons employed by foreign governments or other foreign institutions who may or may not be involved in cooperation with NASA under international agreements; foreign media representatives; and representatives or agents of foreign national governments seeking access to NASA facilities, to include high-level protocol visits; or international relations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include information about the individuals seeking access to NASA resources. Information about individual may include, but is not limited to: Name,

home address, place of birth and citizenship, U.S. visitor/travel document numbers, employment information, Tax Identification Numbers (Social Security number), and reason and length of proposed NASA access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 304(a) of the National Aeronautics and Space Act, codified at 42 USC § 2455; Federal Property Management Regulation, 41 CFR Ch. 101; 14 CFR parts 1203 through 1203b; 14 CFR 1213; 15 CFR 744; 22 CFR 62; 22 CFR 120–130; 40 USC 1441, and 44 U.S.C. 3101, and Executive Order 9397.

PURPOSE(S):

Records are maintained and used by NASA to document, track, manage, analyze, and/or report on foreign visit and assignment access to NASA facilities including Headquarters, Field Offices, National Laboratories, Federally Funded Research and Development Centers, Contractor Sites, components facilities (NASA Management Office, Wallops Flight Facility, White Sands Test Facility, White Sands Complex, Independent Validation & Verification Facility, Michoud Assembly Center, Moffett Federal Airfield, Goldstone Deep Space Communications Complex, Goddard Institute for Space Studies, National Scientific Balloon Facility, Plum Brook Station).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information.

1. A record from this system may be disclosed to authorized contractors who are responsible for NASA security and who require this information to perform their contractual obligations to NASA.

2. A record from this system may be disclosed to contractors, grantees, participants in cooperative agreements, collaborating researchers, or their employees, if required for the performance of their responsibilities with respect to national security, international visit and assignment, or foreign access.

3. A record from this system may be disclosed to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member with respect to the subject matter of his or her own record. The member of Congress must provide a copy of the constituent's request for assistance.

4. A record from this system may be disclosed to foreign governments or international organizations if required by treaties, international conventions, or executive agreements.

5. A record from this system may be disclosed to members of a NASA Advisory Committee or Committees and interagency boards charged with responsibilities pertaining to international visits and assignments and/or national security when authorized by the individual or to the extent the committee(s) is so authorized and such disclosure is required by law.

6. A record from this system may be disclosed to Federal intelligence organizations, when required by applicable law.

7. A record from this system may be disclosed to Federal agencies for the purpose of determining preliminary visa eligibility when authorized by the individual or as required by law.

8. A record from this system may be disclosed to respond to White House inquiries when required by law.

9. A record from this system may be disclosed to a NASA contractor, subcontractor, grantee, or other Government organization involved in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization, when and to the extent the information is required by law.

10. A record from this system may be disclosed to an internal or external organization or element thereof, conducting audit activities of a NASA contractor or subcontractor to the extent required by law.

11. A record from this system may be disclosed to provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation, to the extent necessary and required by law.

12. NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system will be stored in electronic format.

RETRIEVABILITY:

Records may be retrieved by name and other personal identifiers. Records are indexed by individual's name, file number, badge number, decal number, payroll number, passport or visa numbers, and/or Social Security Number.

SAFEGUARDS:

An approved security plan for this system has been established in accordance with OMB Circular A–130, Management of Federal Information Resources. Individuals will have access to the system only when and to the extent such access is legally authorized, each item of information is required for his or her job, and the access is in accordance with approved authentication methods. Only key authorized employees with appropriately configured system roles can access the system.

RETENTION AND DISPOSAL:

Records are stored in the Foreign National Management System and managed, retained and dispositioned in accordance with the guidelines defined in NASA Procedural Requirements (NPR) 1441.1D, NASA Records Retention Schedules, Schedule 1, item 35.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Identity and Systems Management Division, Office of Protective Services, Location 1, as set forth in Appendix A.

NOTIFICATION PROCEDURES:

Individuals inquiring about their records should notify the System Manager at the address given above.

RECORDS ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the System Manager at the address given above. Requests must contain the following identifying data concerning the requestor: First, middle, and last name; date and place of birth; Visa/Passport/Social Security Number; period and place of visit/assignment/employment with NASA.

CONTESTING RECORD PROCEDURES:

The NASA regulations governing access to records and the procedures for contesting the contents and appealing initial determinations are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Records, including official government documentation, are provided by individuals requesting access to NASA facilities and contractor sites, from existing databases containing this information at Federally Funded Research and Development Centers, and from other Federally funded sources located at NASA facilities.

NASA 10GMVP

SYSTEM NAME:

Government Motor Vehicle Operators Permit Records.

SECURTIY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 3 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on NASA employees and contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 41 CFR subpart 101–38.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. NASA may disclose records from this system in accordance with NASA standard routine as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by individual's name.

SAFEGUARDS:

Records are kept in locked cabinets with access limited to those whose official duties require access. Room is locked during nonduty hours.

RETENTION AND DISPOSAL:

Records will be maintained in Agency files and destroyed 3 years after permit expires or holder leaves NASA in accordance with NASA Records Retention Schedules, Schedule 6 Item 12.

SYSTEM MANAGER(S) AND ADDRESS:

Subsystem Managers: Transportation Officer, Location 3 and Chief, Transportation Branch, Location 6. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual NASA employees and individual contractor employees supply information on their own traffic records.

NASA 10IGIC

SYSTEM NAME:

Inspector General Investigations Case Files.

SECURTIY CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of national security pursuant to Executive Order 11652.

SYSTEM LOCATION:

Locations 1 through 11, 14, 16 and 17 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on current and former employees of NASA, contractors, and subcontractors, and others whose actions have affected NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government, (2) theft of Government property, (3) bribery, (4) lost or stolen lunar samples, (5) misuse of Government property, (6) conflict of interest, (7) waiver of claim for overpayment of pay, (8) leaks of Source Evaluation Board information; (9) improper personal conduct, (10) irregularities in awarding contracts; (11) computer crimes; (12) research misconduct; and (13) whistleblower protection.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. Appendix 3.

PURPOSE(S):

Information in this system of records is collected in the course of investigating alleged crimes and other violations of law or regulation that affect NASA. The information is used by prosecutors, Agency managers, law enforcement agencies, Congress, NASA contractors, and others to address the crimes and other misconduct discovered during investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The following are routine uses: (1) Responding to the White House, the Office of Management and Budget, and other organizations in the Executive Office of the President regarding matters inquired of; (2) disclosure to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the request of that individual; (3) providing data to Federal intelligence elements; (4) providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) providing personal identifying data to Federal, State, local, or foreign law enforcement representative seeking confirmation of identity of persons under investigations; (6) disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution, to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor, subcontractor, or grantee is able to take administrative or corrective action; (7) disclosing to any official (including members of the Council of the Inspectors General on Integrity and Efficiency and staff and authorized officials of the Department of Justice and Federal Bureau of Investigation) charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures employed in OIG operations; (8) disclosing to members of the Council of the Inspectors General on Integrity and Efficiency for the preparation of reports to the President and Congress on the activities of the Inspectors General; (9) disclosing to the Recovery Accountability and Transparency Board for preparation of reports on oversight of American Recovery and Reinvestment Act funds; (10) disclosing to the public when: The matter under investigation has become public knowledge, or when the Inspector General determines that such disclosure is necessary to preserve confidence in the integrity of the OIG

investigative process, or to demonstrate the accountability of NASA officers, or employees, or other individuals covered by this system, unless the Inspector General determines that disclosure of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (11) disclosing to the news media and public when there exists a legitimate public interest (*e.g.,* to provide information on events in the criminal process, such as indictments), or when necessary for protection from imminent threat to life or property; (12) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Information is retrieved from the system by name of the individual.

SAFEGUARDS:

Information is kept in locked cabinets and in secured vaults and computer rooms. Information stored on computers is on a restricted-access server and is protected by an official password and user identification. Access is limited to Inspector General personnel with an official need to know.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed in accordance with NASA Procedural Requirements (NPR) 1441.1, NASA Records Retention Schedules, Schedule 9. Files containing information of an investigative nature but not related to a specific investigation are destroyed in accordance with NPR 1441.1. Significant case files are scheduled for disposition with the National Archives and Records Administration when closed. All other case files are destroyed 10 years after file is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Location 1. Subsystem Managers: Special and Resident Agents in Charge, Location 2, 4 through 11 inclusive, 16, and 17 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

None. System is exempt (see below).

RECORD ACCESS PROCEDURES:

None. System is exempt (see below).

CONTESTING RECORD PROCEDURES:

None. System is exempt (see below).

RECORD SOURCE CATEGORIES:

Exempt.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

(1) The Inspector General Investigations Case Files system of records is exempt from any part of the Privacy Act (5 U.S.C. 552a), EXCEPT the following subsections: (b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A)–(F) relating to publishing a system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10), and (11) relating to dissemination and maintenance of records; and (i) relating to criminal penalties. This exemption applies to those records and information contained in the system of records pertaining to the enforcement of criminal laws.

(2) To the extent that there may exist noncriminal investigative files within this system of records, the Inspector General Investigations Case Files system of records is exempt from the following subsections of the Privacy Act (5 U.S.C. 552a): (c)(3) relating to access to disclosure accounting; (d) relating to access to reports; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H), and (I) relating to publishing the system notice information as to agency procedures for access and amendment and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and (k) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212, for the reason that a component of the Office of Inspector General, NASA, performs as its principal function activities pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10SECR

SYSTEM NAME:

Security Records System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9 and Locations 11, 12, and 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on Civil Servant Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, Intergovernmental Personnel Mobility Act (IPA) Employees, Grantees, Cooperative Employees, and Remote Users of NASA Non-Public Information Technology Resources.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Personal Identity Records including NASA visitor files, Emergency Data Records, Criminal Matters, and Traffic Management. Specific records fields include, but are not limited to: Name, former names, date of birth, place of birth, social security number, home address, phone numbers, citizenship, traffic infraction, security violation, security incident, security violation discipline status and action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2451, et seq., the National Aeronautics and Space Act of 1958, as amended; Espionage and Information Control Statutes, 18 U.S.C. 793–799; Sabotage Statutes, 18 U.S.C. 2151–2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202–208, 3056; Internal Security Act of 1950; Atomic Energy Act of 1954, as amended; Executive Order 12958, as amended, Classified National Security Information; Executive Order 12968, as amended, Access to Classified Information; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 10450, Security Requirements for Government Employees; Pub. L. 81–733; Pub. L. 107–347, Federal Information Security Management Act 2002; 41 CFR Chapter 101; 14 CFR part 1203; and 44 U.S.C. 3101; Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The records and information in these records may be disclosed:

1. To the Department of Justice (DOJ) when: (a) The agency or any component thereof; (b) any employee of the agency

in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the DOJ has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by DOJ is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

2. To a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

3. To an Agency in order to provide a basis for determining preliminary visa eligibility.

4. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

5. To a staff member of the Executive Office of the President in response to an inquiry from the White House.

6. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. §§ 2904 and 2906.

7. To agency contractors, grantees, or volunteers who have been engaged to assist the agency in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. § 552a.

8. To other Federal agencies and relevant contractor facilities to determine eligibility of individuals to access classified National Security information.

9. To any official investigative or judicial source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

10. To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

11. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

12. In order to notify an employee's next-of-kin or contractor in the event of a mishap involving that employee or contractor.

13. To notify another Federal agency when, or verify whether, a PIV card is no longer valid.

14. To provide relevant information to an internal or external organization or element thereof conducting audit activities of a NASA contractor or subcontractor.

15. To a NASA contractor, subcontractor, grantee, or other Government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or state statute or regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization.

16. NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained on electronic media and hard-copy documents.

RETRIEVABILITY:

Records are retrieved from the system by individual's name, file number, badge number, decal number, payroll number, Agency-specific unique personal identification code, and/or Social Security Number.

SAFEGUARDS:

Access to system records is controlled by either Government personnel or selected personnel of NASA contractor guard/security force and contractor personnel. After presenting proper identification and requesting a file or record, a person with an official need to know and, if appropriate, a proper clearance may have access to a file or records only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment, and/or information technology systems employing security countermeasures.

RETENTION AND DISPOSAL:

The Personnel Security Records are maintained in Agency files and destroyed upon notification of the death or within 5 years after separation or transfer of employee or within 5 years after contract relationship expires, whichever is applicable in accordance with NASA Records Retention Schedules (NRRS), Schedule 1 Item 103.

The Personal Identity Records are maintained in Agency files and destroyed upon notification of the death or within 5 years after separation or transfer of employee or within 5 years after contract relationship expires, whichever is applicable in accordance with NRRS, Schedule 1 Item 103. Visitor files are maintained and destroyed in accordance with NRRS, Schedule 1 Item 114.

The Emergency Data Records are maintained in Agency files and destroyed when superseded or obsolete in accordance with NRRS 1, Item 100B.

The Criminal Matter Records are maintained in Agency files and destroyed in accordance with Items A and B of National Archives and Records Administration Disposition Authorization N1–255–07–2 after its approval by the Archivist of the United States.

The Traffic Management Records are maintained in Agency files and destroyed in accordance with Item C of National Archives and Records Administration Disposition Authorization N1–255–07–2 after its approval by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Identity and Systems Management Division, Office of Protective Services, Location 1. Subsystem Managers: Chief, Protective Services Division, Location 2; Chief, Security Branch, Locations 4 and 5; Security Officer, Location 3, 8, and 11; Chief, Protective Services Office,

Location 6; Head, Office of Security and Public Safety, Location 7; Chief, Security Division, Location 9; Chief, Administration Office, Location 12; Safety and Security Officer at Location 14. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: First, middle, and last name; date of birth; Social Security Number; period and place of employment with NASA, if applicable.

RECORD ACCESS PROCEDURES:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 552a(k)(5) from the access provisions of the Act.

Personal Identity Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

Emergency Data Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a(k)(2) from the access provision of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

For Personnel Security Records and Criminal Matters Records, see Record Access Procedures, above. For Personal Identity Records, Emergency Data Records, and Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from a variety of sources including the employee, contractor, or applicant via use of the Standard Form (SF) SF–85, SF–85P, or SF–86 and personal interviews; employers' and former employers' records; FBI criminal history records and other databases; financial institutions and credit reports; medical records and health care providers; educational institutions; interviews of witnesses such as neighbors, friends, coworkers, business associates, teachers, landlords, or family members; tax records; and other public records. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, witnesses, supervisor's reports, audit reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a: (c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt the Personnel Security Records portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(5) and Subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a: (c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt the Criminal Matter Records portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(2) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Records subject to the provisions of 5 U.S.C. 552(b)(1) required by Executive Order to be kept secret in the interest of national defense or foreign policy are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a: (c)(3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(1) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals.

SECURTIY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1–9, 11 and 18, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on present and former employees of, and applicants for employment with, NASA Exchanges, Recreational Associations, and Employees' Clubs at NASA Centers and members of or participants in NASA Exchange activities, clubs and/or recreational associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Exchange employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, membership and participation records on Exchange-sponsored activities, clubs and/or recreational associations, and all other employee records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The following are routine uses: (1) To Furnish a third party a verification of an employee's status upon written request of the employee; (2) to facilitate the verification of employee contributions for insurance data with carriers and collection agents;

(3) to provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) to respond to State employment compensation requests for wage and separation data on former employees; (5) to report previous job injuries to worker's compensation organizations; (6) for person to notify in an emergency; (7) to report unemployment records to appropriate State and local authorities; (8) when requested, provide other employers with work records; and (9) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by the individual's name.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures that appear in the NASA regulations at 14 CFR 1212.605, utilizing locked file cabinets and/or secured rooms.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed when 5 years old in accordance with NASA Records Retention Schedules, Schedule 9 Item 6/D.

SYSTEM MANAGERS AND ADDRESSES:

Contractor Industrial Relations Officer, Location 1.

Subsystem Managers: Exchange Store Operations Manager, Location 1; Exchange Council Chair, Location 2; Exchange Operations Manager, Locations 3–5; Chairperson, Exchange Council, Locations 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Location 9; President, NASA Exchange, Location 11; and NSSC Exchange Counsel, Location 18. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant Subsystem Managers listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be directed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and the individual's supervisor.

NASA 10IEM1

SYSTEM NAME:

Integrated Enterprise Management Program (IEMP)—Core Financial System.

SECURTIY CLASSIFICATION:

This system is categorized in accordance with OMB Circular A–11 as a Special Management Attention Major Information System. A security plan for this system has been established in accordance with OMB Circular A–130, Management of Federal Information Resources.

SYSTEM LOCATION:

George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the NASA Core Financial (CF) System include former and current NASA employees and non-NASA individuals requiring any type of payment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system may include information about the individuals including Social Security Number (Tax Identification Number), home address, telephone number, e-mail address, and bank account information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Aeronautics and Space Act of 1958, et seq. as amended. 42 U.S.C. 2473 (2003); Federal Records Act, 44 U.S.C. 3101 (2003); Chief Financial Officers Act of 1990 205(a), 31 U.S.C. 901 (2003); Financial Management Improvement Act of 1996 802, 31 U.S.C. 3512 (2003).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The following are routine uses: (1) Furnish data to the Department of Treasury for financial reimbursement of individual expenses, such as travel, books, and other miscellaneous items; (2) Process payments and collections in which an individual is reimbursing the Agency; (3) Ongoing administration and maintenance of the records, which is performed by authorized NASA employees, both civil servants and contractors; and (4) NASA Standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by name or SSN (Tax ID).

SAFEGUARDS:

An approved security plan for this system has been established in accordance with OMB Circular A–130, Management of Federal Information Resources. Individuals will have access to the system only in accordance with approved authentication methods. Only key authorized employees with appropriately configured system roles can access the system and only from workstations within the NASA Intranet.

RETENTION AND DISPOSAL:

Records are stored in the NASA Enterprise Application Competency Center (NEACC) database and managed, retained and dispositioned in accordance with the guidelines defined in the NASA Procedural Requirements (NPR) 1441.1D, NASA Records Retention Schedules, Schedule 9, Items 11 and 13.

SYSTEM MANAGERS AND ADDRESSES:

IS01/Manager of the NEACC, George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the System Manager at the address given above.

RECORD ACCESS PROCEDURE:

Individuals who wish to gain access to their records should submit their request in writing to the System Manager at the address given above.

CONTESTING RECORD PROCEDURES:

The NASA regulations governing access to records, procedures for contesting the contents and for contesting the contents and for appealing initial determinations are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

The information is received by the NEACC Financial Systems through an electronic interface from the Federal Personnel Payroll System (FPPS). In certain circumstances, updates to this information may be submitted by NASA employees and recorded directly into the NEACC Financial Systems.

APPENDIX A

Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1.
NASA Headquarters, National Aeronautics and Space Administration, Washington, DC 20546–0001
Location 2.
Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000
Location 3.
Dryden Flight Research Center, National Aeronautics and Space Administration, PO Box 273, Edwards, CA 93523–0273
Location 4.
Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001
Location 5.
Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696
Location 6.
John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001
Location 7.
Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–2199
Location 8.
John H. Glenn Research Center at Lewis Field, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191
Location 9.
George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001
Location 10.
HQ NASA Management Office-JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099
Location 11.
John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000
Location 12.
JSC White Sands Test Facility, National Aeronautics and Space Administration, PO Drawer MM, Las Cruces, NM 88004–0020
Location 13.
GRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870
Location 14.
MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, PO Box 29300, New Orleans, LA 70189
Location 15.
NASA Independent Verification and Validation Facility (NASA IV&V), 100 University Drive, Fairmont, WV 26554
Location 16.
New Jersey Post of Duty, 402 East State Street, Trenton, NJ 08608
Location 17.
Western Field Office, Glenn Anderson Federal Building, 501 West Ocean Blvd., Long Beach, CA 90802–4222
Location 18.
NASA Shared Services Center (NSSC), Building 5100, Stennis Space Center, MS 39529–6000

APPENDIX B

Standard Routine Uses—NASA

The following routine uses of information contained in SORs, subject to the Privacy Act of 1974, are standard for many NASA systems. They are cited by reference in the paragraph ''Routine uses of records maintained in the system, including categories of users and the purpose of such uses'' of the **Federal Register** Notice on those systems to which they apply.

Standard Routine Use No. 1—LAW ENFORCEMENT—In the event this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed as a ''routine use'' to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR USE IN LITIGATION—It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when (a) the Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use 5—ROUTINE USE FOR AGENCY DISCLOSURE IN LITIGATION—It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Agency is deemed to be relevant and necessary to the litigation, provided, however, that in each case, the Agency has determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use No. 6—SUSPECTED OR CONFIRMED CONFIDENTIALITY COMPROMISE—A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NASA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by NASA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

[FR Doc. E9–23487 Filed 9–29–09; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 09–087]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed revisions to an existing Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the National Aeronautics and Space Administration is issuing public notice of its proposal to modify its existing system of records NASA 10EEOR, ''Equal Opportunity Records.'' System modifications are set forth below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: Submit comments within 30 calendar days from the date of this publication. This system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: NASA is modifying 10EEOR, as provided below, to include additional authorities for maintenance of the system of records; to better clarify the categories of individuals on whom records are maintained, the records source categories, how the records are retrieved and retained, the safeguards for protecting the records; and to specify additional routine uses.

Bobby L. German,

NASA Chief Information Officer (Acting).

NASA 10EEOR

SYSTEM NAME:

Equal Opportunity (EO) Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1–9, 11, and 18, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on current and former employees and applicants for employment who have entered the informal counseling process, who have filed formal complaints, and who have requested reasonable accommodations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Equal Employment Opportunity (EEO) informal counseling and formal complaint records; records of requests for reasonable accommodation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 791 *et seq.,* The Rehabilitation Act of 1973, as amended; 42 U.S.C. 2473; 42 U.S.C. 12101 *et seq.;* 44 U.S.C. 3101; Exec. Order No. 11,478 (Aug. 8, 1969), 3 CFR 803 (1966–1977), 34 FR 12,985 (Aug. 12, 1969); 29 CFR pt. 1614, Federal Sector Equal Employment Opportunity; 5 CFR pts. 1200–1202, Merit Systems Protection Board; Americans with Disabilities Act of 1990, as amended, including changes made by the ADA Amendments Act of 2008 (Pub. L. 110–325).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The following are routine uses: (1) Disclosures to the Equal Employment Opportunity Commission (EEOC) and the Merit Systems Protection Board (MSPB) to facilitate their processing of discrimination complaints, including investigations, hearings, and reviews on appeals; (2) responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Office of Diversity and Equal Opportunity and to individuals in the record; (3) disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made on behalf of the individual; and (4) disclosures to first aid and safety personnel, when appropriate, if the disability might require emergency treatment; (5) disclosures to Federal Government officials charged with the responsibility of investigating NASA's compliance with The Rehabilitation Act of 1973, as amended; (6) disclosures to those outside the Agency who have the expertise in determining the appropriateness of the reasonable accommodation. To the greatest extent possible, personally-identifiable information will be deleted; and (7) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy and electronic documents.

RETRIEVABILITY:

Hard copy records are retrieved by the complainant's name. Electronic records are accessed by name, case number, nature of the complaint, or stage of the complaint in the process.

SAFEGUARDS:

Hard copy records are locked in file cabinets or in secured rooms with access limited to those whose official duties require access. Electronic data are maintained within locked areas either on disks or in electronic repositories behind approved firewalls with password protected access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and can be destroyed in accordance with NPR 1441.1 NASA Records Retention Schedules, Schedule 3 Item 2.5/E.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator for Diversity and Equal Opportunity, Location 1. Subsystem Managers: Center Equal Opportunity (EO) Directors/Officers, at locations 1–9, 11, and 18, as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem managers listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals themselves; Assistant Administrator for Diversity and Equal Opportunity, and all designees, including NASA Center EO Directors; Center complaints managers/coordinators; EEO counselors, specialists, and investigators; EEOC officials and MSPB officials.

Appendix A

Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1.

NASA Headquarters, National Aeronautics and Space Administration, Washington, DC 20546–0001.

Location 2.

Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000.

Location 3.

Dryden Flight Research Center, National Aeronautics and Space Administration, PO Box 273, Edwards, CA 93523–0273.

Location 4.

Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001.

Location 5.

Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696.

Location 6.

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001.

Location 7.

Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–2199.

Location 8.

John H. Glenn Research Center at Lewis Field, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191.

Location 9.

George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001.

Location 10.

HQ NASA Management Office-JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099.

Location 11.

John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000.

Location 12.

JSC White Sands Test Facility, National Aeronautics and Space Administration, P.O. Drawer MM, Las Cruces, NM 88004–0020.

Location 13.

GRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870.

Location 14.

MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, P.O. Box 29300, New Orleans, LA 70189.

Location 15.

NASA Independent Verification and Validation Facility (NASA IV&V), 100 University Drive, Fairmont, WV 26554.

Location 16.

New Jersey Post of Duty, 402 East State Street, Trenton, NJ 08608.

Location 17.

Western Field Office, Glenn Anderson Federal Building, 501 West Ocean Blvd., Long Beach, CA 90802–4222.

Location 18.

NASA Shared Services Center (NSSC), Building 5100, Stennis Space Center, MS 39529–6000.

Appendix B

Standard Routine Uses—NASA

The following routine uses of information contained in SORs, subject to the Privacy Act of 1974, are standard for many NASA systems. They are cited by reference in the paragraph ''Routine uses of records maintained in the system, including categories of users and the purpose of such uses'' of the **Federal Register** Notice on those systems to which they apply.

Standard Routine Use No. 1—LAW ENFORCEMENT—In the event this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed as a ''routine use'' to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR USE IN LITIGATION—It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when (a) the Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use 5—ROUTINE USE FOR AGENCY DISCLOSURE IN LITIGATION—It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Agency is deemed to be relevant and necessary to the litigation, provided, however, that in each case, the Agency has determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use No. 6—SUSPECTED OR CONFIRMED CONFIDENTIALITY COMPROMISE—A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NASA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by NASA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

[FR Doc. E9–23497 Filed 9–29–09; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Engineering Advisory Committee Meeting, #1170.

Date/Time: October 21, 2009: 12:00 p.m. to 6:15 p.m. October 22, 2009: 8:15 a.m. to 12:15 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1235, Arlington, Virginia 22230.

Type of Meeting: Open.

Contact Person: Deborah Young, National Science Foundation, 4201 Wilson Boulevard, Suite 505, Arlington, Virginia 22230.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to engineering programs and activities.

Agenda: The principal focus of the meeting on both days will be to discuss emerging issues and opportunities for the Directorate for Engineering and its divisions and review Committee of Visitors Reports.

Dated: September 25, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9–23544 Filed 9–29–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–152; NRC–2009–0400]

Notice of License Acceptance of Renewal Application for Purdue University and Opportunity To Request a Hearing; Special Nuclear Materials License SNM–142, West Lafayette, IN

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license renewal application and opportunity to request a hearing.

FOR FURTHER INFORMATION CONTACT: Mary Adams, Senior Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, Maryland 20852. Telephone: (301) 492–3113; Fax: (301) 492–3363; e-mail: *Mary.Adams@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) has accepted an application for renewal of Special Nuclear Material License SNM–142 for the continued use of special nuclear materials (SNM) for education, research, and training programs at Purdue University in West Lafayette, Indiana. Purdue requested renewal of SNM–142 for a period of 10 years. This license renewal, if approved, would authorize Purdue to continue to possess and use special nuclear materials under the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 70, Domestic Licensing of SNM.

II. Discussion

In an application dated July 31, 2009, Purdue requested renewal of SNM–142. Following an administrative review, and as documented in a letter to Purdue University dated August 28, 2009, the NRC staff determined that the request for renewal contains all essential elements and accepted it for technical review and docketing. The application has been docketed in Docket No. 70–152, the existing docket for Special Nuclear Materials License SNM–142. In accordance with 10 CFR 70.38(a), Purdue is permitted to continue using the SNM in accordance with existing license SNM–142, pending a final Commission decision on the renewal request. The acceptance letter estimated that NRC staff would complete the review by September 2010.

If the NRC approves the renewal application, the approval will be documented in renewal of NRC License SNM–142. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. These findings will be documented in a Safety Evaluation Report. Because the licensed material will be used for research and development and for educational purposes, renewal of SNM–142 is an action that is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement, pursuant to 10 CFR 51.22(c)(14)(v).

II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for the renewal of Special Nuclear Material License SNM–142 issued to Purdue University in West Lafayette, Indiana. Any person whose interest may be affected by this proceeding, and who desires to participate as a party, must file a request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing, in accordance with the NRC E–Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). All documents filed in NRC adjudicatory proceedings, including documents filed by interested governmental entities participating under 10 CFR 2.315(c) and any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, must be filed in accordance with the E–Filing rule. The E–Filing rule requires participants to submit and serve all adjudicatory documents over the Internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E–Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *Hearing.Docket@nrc.gov,* or by calling (301) 415–1677, to request: (1) A digital Identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E–Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor, or its counsel or representative, already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E–Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/sitehelp/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/applycertificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m., Eastern Time on the due date. Upon receipt of a transmission, the E–Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E–Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The toll-free help line number is (800) 672–7640. A person filing electronically may also seek assistance by sending an

e-mail to the NRC electronic filing Help Desk at *MSHD.Resource@nrc.gov.*

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemakings and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The formal requirements for documents contained in 10 CFR 2.304(c)–(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing or petition for leave to intervene must be filed by November 30, 2009. In addition to meeting other applicable requirements of 10 CFR 2.309, a request for a hearing must state:

1. The name, address, and telephone number of the requester;

2. The nature of the requester's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requester's property, financial or other interest in the proceeding;

4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and

5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

A request for a hearing or petition for leave to intervene must also include a specification of the contentions that the petitioner/requestor seeks to have litigated in the hearing. For each contention, the petitioner/requestor must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner/requestor must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license in response to AES's application. The request/petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner/requestor and on which the petitioner/requestor intends to rely at hearing, together with references to the specific sources and documents on which the petitioner/requestor intends to rely. Finally, the request/petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner/requestor believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's/requestor's belief. Each contention must be one that, if proven, would entitle the petitioner/requestor to relief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the request or petition is to be filed, such as the application or other supporting document filed by the applicant, or otherwise available to the petitioner/requestor. The petitioner/requestor may amend those contentions or file new contentions if there are data or conclusions in the NRC draft or final documents, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Petitioners/requestors should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requestors or petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any petitioner/requestor that wishes to adopt a contention proposed by another petitioner/requestor must do so, in accordance with the E–Filing rule, within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the petitioner/requestor.

In accordance with 10 CFR 2.309(g), a request for hearing or a petition for leave to intervene may also address the selection of hearing procedures, taking into account the provisions of 10 CFR 2.310.

III. Further Information

The application for license renewal is available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the document comprising the July 31, 2009, license renewal request is ML092660195. The ADAMS accession number for the NRC staff's August 28, 2009, acceptance letter is ML092310085.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O–1 F21, One

White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 3rd day of September, 2009.

For the U.S. Nuclear Regulatory Commission.

Peter J. Habighorst,

Chief, Fuel Manufacturing Branch, Fuel Facilities Licensing Directorate, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E9–23572 Filed 9–29–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0643]

Draft Regulatory Guide: Public Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Public Meeting on Draft Regulatory Guide, DG–1203.

FOR FURTHER INFORMATION CONTACT: Robert G. Roche-Rivera, Project manager, Structural Geotechnical and Seismic Engineering Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 251–7645; fax number: (301) 521–7420; e-mail: *Robert.Roche@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) has revised Draft Guide 1203 considering NRC staff recommendations and public comments. This Draft Guide, originally entitled, ''Containment Performance for Pressure Loads'', describes methods that the staff of the NRC considers acceptable for evaluating containment structural integrity under internal pressurization above design pressure, in accordance with regulatory requirements and Commission's performance goals for containment structures under internal pressurization.

II. Further Information

The NRC staff invites the public for a meeting to discuss the revised Draft Guide 1203. This is a Category 2 Meeting. The public is invited to participate in this meeting by discussing regulatory issues with the U.S. Nuclear Regulatory Commission (NRC) at designated points on the agenda. The meeting will take place on Thursday October 8, 2009 from 1 p.m. to 4 p.m. at the following location:

• U.S. Nuclear Regulatory Commission, Church Street Building, Room CSB–6B1, 21 Church Street, Rockville, MD 20850.

Interested members of the public can also participate in the meeting via a toll-free teleconference. For details, please call the meeting contact listed above.

The NRC provides reasonable accommodations to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this meeting (*e.g.,* sign language), or need this meeting notice or other information from the meeting in another format (*e.g.,* Braille, large print), please notify the NRC's meeting contact. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Dated at Rockville, Maryland, this 23rd day of September, 2009.

For the Nuclear Regulatory Commission.

Rosemary T. Hogan,

Chief, Structural Geotechnical and Seismic Engineering Branch, Division of Engineering, Office of Nuclear Regulatory Research.

Agenda for Public Meeting Regarding Draft Regulatory Guide DG–1203: Containment Performance for Pressure Loads

1 p.m.–4 p.m. Thursday October, 8, 2009, NRC, Church Street Building, Rockville, MD (Room CSB–6B1).

1–1:10 Introduction and Opening Remarks;

1:10–1:50 Presentation—Overview of revised Draft Guide 1203 and resolution to public comments;

1:50–2 Break;

2–4 Discussion on Draft Guide 1203;

4 Adjourn.

[FR Doc. E9–23571 Filed 9–29–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Questionnaire for National Security Positions, SF 86

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Federal Investigative Services Division (FISD), U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an information collection request (ICR), Office of Management and Budget (OMB) Control No. 3206–0005, for the General Request for the Questionnaire for National Security Positions, (SF 86). As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until October 30, 2009. This process is conducted in accordance with 5 CFR part 1320.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the FISD, OPM, 1900 E. Street, NW., Room 2H31, Washington, DC 20415, Attention: MaryKay Brewer or sent via electronic mail to *SFRevisionComments@opm.gov*; and Jasmeet K. Seehra, OMB Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, and/or a copy of the Change Matrix described in the **SUPPLEMENTARY INFORMATION**, below, may be obtained by contacting the FISD, OPM, 1900 E. Street, NW., Washington, DC 20503, Attention: MaryKay Brewer or sent via electronic mail to *MaryKay.Brewer@opm.gov*.

SUPPLEMENTARY INFORMATION: This notice announces that OPM submitted to OMB a request for review and clearance of the revised collection of information, Questionnaire for National Security Positions SF 86 (OMB Control No. 3206–0005), which includes e-QIP (Electronic Questionnaires for Investigations Processing).

Previously, OPM requested OMB review and clear a suite of investigative forms that were packaged under OMB Control No. 3206–0005 and included the Questionnaire for National Security Positions, SF 86. Due to the continuing Executive and congressional interest in improving and streamlining the processes by which security clearances are granted, OMB has granted a request by OPM to review and clear the various expiring investigative forms separately so as to move forward at this time with the Questionnaire for National Security Positions, SF 86.

The SF 86 will be used by the U.S. Government in conducting background investigations, reinvestigations, and continuous evaluations, as appropriate, of persons under consideration for or retention in national security positions as defined in 5 CFR part 732 and for positions requiring eligibility for access to classified information under Executive Order 12968. This form may also be used by agencies in determining whether a subject performing work for or on behalf of the Government under a contract should be deemed eligible for logical or physical access when the nature of the work to be performed is sensitive and could bring about an adverse effect on the national security. It is estimated that 21,800 non-Federal individuals will complete the SF 86 annually. Each form takes approximately 150 minutes to complete. The estimated annual burden is 54,500 hours. e-QIP is a Web-based system application that currently houses an electronic version of the SF 86. This Internet data collection tool provides faster processing time and immediate data validation to ensure accuracy of the respondent's personal information. The e-Government initiative mandates that agencies utilize e-QIP for all investigations and reinvestigations. A variable in assessing burden hours is the nature of the electronic application. The electronic application includes branching questions and instructions which provide for a tailored collection from the respondent based on varying factors in the respondent's personal history. The burden on the respondent is reduced when the respondent's personal history is not relevant to a particular question, since the question branches, or expands for additional details, only for those persons who have pertinent information to provide regarding that line of questioning. As such, the burden on the respondent will vary depending on whether the information collection relates to the respondent's personal history. Additionally, once entered, a respondent's complete and certified investigative data remain secured in the e-QIP system until the next time the respondent is sponsored by an agency to complete a new investigative form. Upon initiation, the respondent's previously entered data (except 'yes/no' questions) will populate a new investigative request and the respondent will be allowed to update their information and certify the data. In this instance, time to complete the form is reduced significantly.

The 60-day **Federal Register** Notice was published June 23, 2008 (Volume 73, Number 121, pages 35421–35422). The notice proposed to change the SF 86 to specify continuous evaluation as a purpose of the form and a part of the investigative process. The ''Authorization for Release of Information'' was amended to acknowledge that the information provided may be used to conduct officially sanctioned and approved personnel security-related research and studies. The authorization language was amended to change the period the authorization remains in effect from (up to) five years to an unspecified period so long as the respondent remains employed in a sensitive position requiring access to classified information. The Fair Credit Reporting Disclosure and Authorization Form was made part of the proposed SF 86 as required under OMB Terms of Clearance. It is important to note that at the time the **Federal Register** notice was posted in June 2008, agencies were still utilizing the 1995 version of the form as the version in use today had not yet been implemented.

The following Federal agencies, agency components and multi-agency working groups made comments during the public comment period following the 60-day Notice: Social Security Administration, Joint Security and Suitability Reform Team (JRT), Department of Housing and Urban Development, Department of Health and Human Services, U.S. Agency for International Development, Department of Homeland Security (DHS), Central Intelligence Agency, Department of Transportation, Director of National Intelligence (DNI), Department of State (DOS), Department of State Mental Health Services, Federal Bureau of Investigation, Defense Personnel Security Research Center, Department of Energy (DOE), and internal commentators from the U.S. Office of Personnel Management (OPM). OPM internal commentators mostly focused on administrative issues related to the formatting of the instructions and layout of the questions on the former paper collection. Most comments from agencies other than the JRT focused on changes to the collection of mental health treatment information relative to treatment resulting from service in a military combat environment. The JRT comments focused on collecting from the respondent more accurate and relevant information of investigative and adjudicative significance earlier in the investigative process, to wit at the time the respondent completes the form, and the JRT recommended expanded branching questions in most sections of the form to collect additional details.

A 30-day **Federal Register** Notice was published December 31, 2008 (Volume 73, Number 251, pages 80445–80447). This notice proposed an SF 86 that incorporated the significant and substantial changes to the lines of questioning recommended in the comments by the JRT. Section 9, Citizenship, was changed to collect additional information that will assist in verifying citizenship of respondents born outside of the U.S. Branching questions inserted after each response tailored the elicitation of information to the respondent's personal history. Section 10, Dual/Multiple Citizenship, was expanded to include broader questions designed to elicit information pertinent to the adjudicative guideline for Foreign Preference. At Section 11, Where You Have Lived, branching questions replaced detailed instructions for all respondents and instead tailored the collection to elicit information based on the respondent's relevant personal history. Additional contact information for the residence reference was added to assist investigation. At Section 12, Where You Went To School, the instructions were changed to require 7 years of information vice 10 regarding certain educational activities and the verbiage was changed regarding listing degrees or diplomas received more than 7 years ago to be consistent with changes to the investigative standards. At Section 13a, Employment Activities, branching questions were added to reduce detailed instructions for all respondents and tailor instructions as applicable to the respondent. ''Code 9—Non-government employment (excluding self-employment)'' was added to the employment types for clarity. Additionally, branching questions for foreign addresses and contacts were added to assist investigation. At Section 13c, Employment Record, branching questions were added to prompt the applicant to enter the required information following each positive response, thereby simplifying the

detailed instructions previously necessary. The requirement to specify whether the respondent was laid off from a job was deleted as this information was not pertinent to the adjudicative guidelines regarding personal conduct and handling protected information that drive the Employment Record section. At Section 15, Military Service, branching questions were added to collect more specific details pertinent to the Personal Conduct and Criminal Conduct adjudicative guidelines. Branching question were added to elicit more information regarding foreign military service to obtain information pertinent to the adjudicative guidelines for Foreign Influence and Foreign Preference. At Section 16, People Who Know You Well, branching questions were added to clarify and collect additional information pertaining to the references. At Section 17, instructions were branched to assist investigations, and the definition of ''cohabitant'' was clarified. Section 18 was reformatted for branching questions and ''Visa'' was added to the listing of types of documentation to support investigation. At Section 19, Foreign Activities, ''influence'' replaced ''common interests'' for clarity regarding relationships with foreign nationals. Branching questions were added to obtain additional information pertaining to foreign connections and the approximate frequency of contact to support the Foreign Influence adjudicative guideline. At Section 20, additional questions regarding foreign financial activities, foreign real estate, and receipt of benefits from a foreign country, including questions concerning the subject's immediate family members, were added to elicit information pertinent to the Foreign Influence guideline. Additional questions regarding foreign employment, business ventures, travel, and foreign government contacts, including questions concerning the subject's immediate family members, were added to elicit information pertinent to the Foreign Influence, Foreign Preference, and Outside Activities adjudicative guidelines. At Question 21, additional branching questions were added to elicit information regarding mental health conditions and treatment pertinent to the adjudicative guideline for Psychological Conditions, including questions about counseling or treatment providers, whether treatment was on an in-patient basis, whether admission was voluntary, and whether the subject was ever adjudicated as mentally incompetent. At Section 22, Police Record, branching questions were added to inquire about the disposition of criminal proceedings, and to inquire about offenses related to firearms, explosives, alcohol and drugs for a 7 year period vice an unlimited period pertaining to the respondent's entire life. At Section 23, Illegal Use of Drugs or Drug Activity, questions were added regarding intent of future use and drug treatment pertinent to the adjudicative guideline for Drug Involvement. The requirement to report possession of drugs was replaced with a broader collection requiring reporting of illegal purchase. At Section 24, Use of Alcohol, questions were branched to further identify actions taken by applicant to pursue and/or complete recommended counseling/treatment and to elicit pertinent information regarding the adjudicative guideline for Alcohol Consumption. At Section 25, Investigations and Clearance Record, branching questions were added to elicit information necessary for investigation to obtain relevant prior records and to elicit information potentially connected to the adjudicative guideline for Handling Protected Information. Additionally, questions regarding investigations by foreign governments were added to elicit information pertinent to the adjudicative guideline for Foreign Preference. At Section 26, Financial Record, branching questions were added to elicit specific detailed information pertaining to each financial area instead of an open text field for respondents to provide explanation. The time frame for reporting delinquencies on any debt was changed to 120 days, instead of 180 days for prior debts and 90 days for current debts. A question was added regarding involvement with a credit counseling service to support the adjudicative guideline for Financial Considerations. At Section 28, Involvement in Non-Criminal Court Actions, the time period respondents are required to report was changed to the last 7 years vice 10. At Section 29, Association Record, branching questions were added to collect detailed information versus providing a blank area for explanation. The Certification Statement was amended to remove verbiage regarding security clearance to clarify penalties for incomplete or inaccurate statements. On the medical release, a question was added to obtain the ''dates of the treatment'' pertinent to the adjudicative guideline for Psychological Conditions.

The following Federal agencies, agency components and multi-agency working groups made comments during the public comment period following the December 2008 30-day Notice: DHS, DNI, JRT, Office of the Under Secretary of Defense (Intelligence) (USDI), Department of the Interior, DOE, OPM, National Security Agency, and an e-Application Content Working Group (ECWG) comprised of representatives from OPM, DOS, FBI, National Geospatial-Intelligence Agency (NGA), DHS, Department of the Air Force, National Reconnaissance Office (NRO), National Security Agency (NSA), Defense Security Service (DSS), and Office of the Secretary of Defense General Counsel (OSDGC). DHS, DOE, USDI, OPM, DoD, and ECWG made comments regarding the collection of mental health treatment information relative to treatment resulting from service in a military combat environment. The ECWG made numerous comments recommending improvements to the formatting of questions for clarity, as well as recommendations to more clearly specify that the time periods being asked about for certain questions pertain to the respondent's whole life. For certain questions, such as those regarding foreign countries visited and contact with foreign nationals, the ECWG recommended the required response period be expanded to ''ever'' rather than 7 years. The ECWG recommended the section on Use of Information Technology expand to collect information regarding ''attempts'' at misconduct in addition to actual conduct. The vast majority of comments from the JRT were formatting recommendations for the purpose of clarity and, where possible, to align common language from other investigative forms where the meaning and intent are identical.

Following the public comment period, the Acting Director, OPM, requested that OMB permit OPM to withdraw the proposed revisions to the suite of forms, including the SF 86, then pending before OMB for clearance, a request that OMB granted February 23, 2009, in order to provide the current Administration's officials at OPM and other concerned agencies the opportunity to review the collection and propose revisions as necessary based on their review. OPM and OMB pursued a multi-agency review together with the Department of Justice, Department of Defense, and Director of National Intelligence. The proposed SF 86 resulting from that review is the basis for this 30-day notice and request for comments. The review resulted in the following changes to the SF 86 proposed in the December 31, 2008 30-day notice:

Language was added to provide additional clarity regarding the penalties for incomplete and/or inaccurate statements. Language was added to clarify that the form may also be used by agencies in determining whether a subject performing work for or on behalf of the Government under a contract should be deemed eligible for logical or physical access when the nature of the work to be performed is sensitive and could bring about an adverse effect on the national security. Language referencing immunity protections was added to the questions regarding illegal use of drugs or drug activity, use of information technology systems, and association record. Questions were added to the section on police record in order to identify respondents who may be impacted by the restrictions cited in the Lautenberg Amendment. The advisement regarding mental health counseling was expanded to explain that mental health counseling in and of itself is not a reason to revoke or deny eligibility for access to classified information or for a sensitive position, suitability or fitness to obtain or retain Federal employment, fitness to obtain or retain contract employment, or eligibility for physical or logical access to Federally controlled facilities or information systems. Questions that elicited the reason for and nature of mental health treatment were removed, as were questions regarding participation in self-help groups for alcohol abuse. In the financial record section, the question regarding involvement with a credit counseling service was amended to better capture mitigating information from respondents who seek assistance to resolve financial difficulties. A question on holding foreign political office and voting in foreign elections was moved from the form's association record section to the form's foreign activities section.

To provide additional clarity, a copy of a matrix, ''Changes between Current Form and proposed Sep 09 30-day Notice,'' that shows the changes between the currently approved SF 86 and the SF 86 proposed in this 30-day notice, is available upon request.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. E9–23711 Filed 9–29–09; 8:45 am]

BILLING CODE 6325–53–P

SMALL BUSINESS ADMINISTRATION

Business Loan Program Maximum Allowable Fixed Rate

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice announcing maximum allowable fixed rate.

SUMMARY: This Notice announces the maximum allowable fixed rate for 7(a) guaranteed loans.

DATES: This Notice is effective October 1, 2009.

FOR FURTHER INFORMATION CONTACT: The Lender Relations Specialist in the SBA district office nearest you. The list of offices can be found at *http://www.sba.gov/localresources/index.html.*

SUPPLEMENTARY INFORMATION: Agency regulations at 13 CFR 120.213(a), Fixed Rates for Guaranteed Loans, state the following: ''A loan may have a reasonable fixed interest rate. SBA periodically publishes the maximum allowable rate in the **Federal Register**.''

For a number of years, the SBA maximum allowable fixed rate has been based on the Prime rate. Because the Prime rate is a short term rate, very few lenders have been willing to make long term SBA Section 7(a) loans with a fixed rate. In order to provide small businesses with an opportunity to lock in the fixed interest rates available in the market today, SBA is revising how the maximum allowable fixed rate is calculated. Effective October 1, 2009, the SBA maximum allowable fixed rate for 7(a) loans (other than SBA Express and Export Express loans) will utilize a new base rate for fixed rate loans (Fixed Base Rate) plus the maximum allowable spreads that are already being used on variable rate loans.

The Fixed Base Rate for a 7(a) loan will be calculated as follows: The SBA LIBOR Base Rate (defined in 13 CFR 120.214 as the 1-month LIBOR in effect on the first business day of the month as printed in a national financial newspaper each business day PLUS 300 basis points), plus the average of the 5-year and 10-year LIBOR swap rates in effect on the first business day of the month as printed in a national financial newspaper published each business day. In other words, the Fixed Base Rate is based on the rate a borrower would pay if it purchased a floating-to-fixed rate swap contract on a 7(a) loan. A swap rate factors in what the money markets identify as the likely difference between a variable rate and a fixed rate over a set period of time. SBA chose to use the average of the 5-year and 10-year LIBOR swap rates in the calculation of the maximum allowable fixed rate because these rates are published in a financial newspaper on a daily basis and the average of these two rates will provide a basis for a maximum allowable fixed rate appropriate both for shorter term and longer term loans.

The maximum allowable fixed rate for 7(a) loans (excluding SBA Express and Export Express) will be the Fixed Base Rate plus the allowable interest rate spreads identified in 13 CFR 120.214 (d) and (e) and 13 CFR 120.215. (For SBA Express and Export Express loans, the maximum allowable interest rate is the prime rate plus 6.5 or 4.5 depending on the loan amount. See SOP 50 10 5(B), Subpart B, Chapter 3. SOP 50 10 5(B) may be found at *http://www.sba.gov/aboutsba/sbaprograms/elending/reg/index.html.*)

The following is an example for 7(a) loan applications (other than SBA Express and Export Express), submitted to SBA in the month of September 2009 if the new policy had been in effect:

The SBA LIBOR Base Rate for September is 3.26.

The 5-year LIBOR swap rate on the first business day of September as published in a national financial newspaper was 2.72 (rounded to the second decimal). The 10-year LIBOR swap rate on the first business day of September as published in a national financial newspaper was 3.60 (rounded to the second decimal). The average of these two rates is 3.16.

The SBA Fixed Base Rate for loans submitted to SBA during September 2009 would have been 6.42 [3.26 (SBA LIBOR Base Rate) + 3.16 (average of 5-year and 10-year swap rates)].

Thus, the maximum allowable fixed rates for 7(a) loans (other than SBA Express and Export Express) submitted to SBA in September 2009 would have been as follows:

For 7(a) loans with a maturity less than 7 years: 6.42 (SBA Fixed Base Rate for September) + 2.25 (maximum spread for loans with a maturity less than 7 years) equals 8.67 (maximum allowable fixed rate). If the loan amount is over $25,000 but not exceeding $50,000, the maximum allowable fixed rate may be increased by one percentage point. If the loan amount is $25,000 or less, the maximum allowable fixed rate may be increased by two percentage points.

For 7(a) loans with a maturity of 7 years or more: 6.42 (SBA Fixed Base Rate for September) + 2.75 (maximum spread for loans with a maturity of 7 years or more) equals 9.17 (maximum allowable fixed rate). If the loan amount is over $25,000 but not exceeding $50,000, the maximum allowable fixed rate may be increased by one percentage point. If the loan amount is $25,000 or

less, the maximum allowable fixed rate may be increased by two percentage points.

The maximum allowable fixed rates will be posted monthly on SBA's Web site at *http://www.sba.gov/aboutsba/sbaprograms/elending* on the second business day of the month, in the afternoon. SBA will review the newspaper on the second business day of the month to determine the SBA LIBOR Base Rate and the LIBOR swap rates in effect on the first business day of the month and will use those rates in the calculation.

The new maximum allowable fixed rates identified in this Notice will be available for 7(a) loan applications (other than SBA Express and Export Express) received by SBA on or after October 1, 2009.

Questions on the maximum allowable fixed rates may be directed to the Lender Relations Specialist in the local SBA district office. The local SBA district office may be found at *http://www.sba.gov/localresources.*

Authority: 15 U.S.C. 636(a)(4)(A) and 13 CFR 20.213.

Richard C. Blewett,

Acting Director, Office of Financial Assistance.

[FR Doc. E9–23558 Filed 9–29–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Information Security Task Force; Request for Nominations

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Request for nominations.

SUMMARY: On May 22, 2009, Public Law 111–24 was signed by the President establishing, among other things, a Small Business Information Security Task Force. This task force was established to address the information technology security needs of small businesses and to help small businesses prevent the loss of credit card data. SBA is now requesting nominations for members of this task force.

DATES: Submit nominations on or before 5 p.m. EST October 16, 2009 per the instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this request for nominations may contact Jack Bienko, via telephone (202) 205–6052, fax (202) 481–2636, e-mail *john.bienko@sba.gov* or mail U.S. Small Business Administration, 409 3rd Street, SW., 6th Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: SBA is requesting nominations for the Small Business Information Security Task Force. SBA encourages all qualified candidates to apply. Candidates may self-nominate or be nominated by another source.

Function of the Task Force

This task force was established by section 507 of Public Law 111–24 to assess the information security needs of small business concerns, including the programs and services currently available, and make recommendations to SBA as to new programs and services which will help small businesses address those concerns. Specifically, the task force shall:

1. Identify the information technology security needs of small business concerns,

2. Identify and assess the programs and services provided by Federal and State governments and non-government organizations which serve the information technology security needs of small business concerns,

3. Make recommendations to SBA on how to more effectively serve small business information technology security needs through the creation of new Federal programs and services, small business education and training, or more effective marketing of existing programs,

4. Make recommendations on how SBA can better inform and educate small businesses on information technology security concerns, including use of the Internet,

5. Assess and recommend whether a permanent advisory board should be created,

6. Provide SBA with a comprehensive list of Internet sites containing appropriate and relevant information on small business information technology security needs of which SBA should link, and

7. Prepare a final report with recommendations for SBA, which will be submitted to Congress.

Qualifications

From the nominations received, the SBA Administrator will appoint a Chair and Vice Chair of the task force. The Administrator will then work with the Chair to appoint up to 13 additional members; at least one from each of the following categories who will serve as representatives of their respective constituency:

1. Subject matter experts,

2. Users of information technology within small business concerns,

3. Vendors of information technologies for small business concerns,

4. Academics with expertise in the use of information technologies to support business,

5. Small business trade associations,

6. Federal, state or local agencies engaged in securing cyberspace, and

7. Information technology training providers with expertise on the use of information technologies to support business.

Meetings

The entire task force will meet at least twice per year in Washington DC. Other meetings may occur via conference call.

Status

All members will be considered representatives and will not be paid for participation however the Agency will pay travel and per diem expenses while members are attending required meetings in Washington, DC.

Expectations

All task force members are expected to fully participate in the task force and come to the twice-yearly meetings in Washington DC.

What To Send

1. Letter of Nomination: nominees should send a letter of self-nomination or a letter of nomination from a peer or professional organization or society. This letter must indicate which category the nominee fulfills and highlight accomplishments, including studies, publications and professional accomplishments related to small business information technology security issues.

2. Current resume.

3. Biographical sketch (optional) no more than two pages listing areas of expertise related to information technology security and small business, research activities, service on other Federal advisory committees and professional organizations.

4. Nomination Form: Nominees must complete and sign SBA Form 898 (available at *http://www.sba.gov/nac*).

All nominees are subject to a conflict of interest determination by SBA and will not be considered eligible until such determination is made. Nominations must be sent to Jack Bienko at the above information. E-mail and fax are preferred methods of submission.

Dated: September 25, 2009.

Penny Pickett,

Associate Administrator for Entrepreneurial Development.

[FR Doc. E9–23538 Filed 9–29–09; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Extension of Existing Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0123.

Extension: Rule 17a–25, OMB Control No. 3235–0540, SEC File No. 270–482.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in the following rule: Rule 17a–25 (17 CFR 240.17a–25) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Paragraph (a)(1) of Rule 17a–25 requires registered broker-dealers to electronically submit securities transaction information, including identifiers for prime brokerage arrangements, average price accounts, and depository institutions, in a standardized format when requested by the Commission staff. In addition, paragraph (a)(3)(c) of Rule 17a–25 requires broker-dealers to submit, and keep current, contact person information for electronic blue sheet (''EBS'') requests. The Commission uses the information for enforcement inquiries or investigations and trading reconstructions, as well as for inspections and examinations.

The Commission estimates that it sends approximately 5168 electronic blue sheet requests per year to clearing broker-dealers, who in turn submit an average 79,992 responses.[1] It is estimated that each broker-dealer who responds electronically will take 8 minutes, and each broker-dealer who responds manually will take 1½ hours to prepare and submit the securities trading data requested by the Commission. The annual aggregate hour burden for electronic and manual response firms is estimated to be 10,786 (79,992 × 8 ÷ 60 = 10,666 hours) + (80 × 1.5 = 120 hours), respectively.[2] In addition, the Commission estimates that it will request 500 broker-dealers to supply the contact information identified in Rule 17a–25(c) and estimates the total aggregate burden hours to be 125. Thus, the annual aggregate burden for all respondents to the collection of information requirements of Rule 17a–25 is estimated at 10,911 hours (10,786 + 125).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

September 23, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23492 Filed 9–29–09; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 6774]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the 16 letters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Kovac, Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2861.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

August 6, 2009 (Transmittal No. DDTC 020–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to support the Proton launch of the NSS–14 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 050–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 3(d) (5) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed transfer of technical data, defense services, and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the sale of seven (7) C–27J Spartan Aircraft from Alenia Aeronautica S.p.A. to the Government of Romania. The transfer will include U.S. origin content, technical data, spare parts, and ground support equipment.

The United States Government is prepared to license the transfer of these items having

[1] A single EBS request has a unique number assigned to each request (*e.g.,* ''0900001''). However, the number of broker-dealer responses generated from one EBS request can range from one to several hundred. EBS requests are sent directly to clearing firms, as the clearing firm is the repository for trading data for securities transactions information provided by itself and correspondent firms. Clearing brokers respond for themselves and other firms they clear for.

[2] Few of respondents submit manual EBS responses. The small percentage of respondents that submit manual responses do so by hand, via e-mail, spreadsheet, disk, or other electronic media. Thus, the number of manual submissions (80) has minimal effect on the total annual burden hours.

taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 054–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 3(d) (3) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed transfer of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the sale of four (4) C–27J Spartan Aircraft from Alenia Aeronautica S.p.A. to the Government of the Kingdom of Morocco. The transfer will include U.S. origin content, technical data, spare parts, and ground support equipment.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 056–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture and overhaul of hydraulic steering systems for X300 transmissions of ground vehicles in the United Kingdom.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

July 31, 2009 (Transmittal No. DDTC 065–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to expand the sales territory associated with a manufacturing license agreement for the production of significant military equipment in the Republic of Korea.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to support the manufacture of T–50 Military Trainer Aircraft in the Republic of Korea, as well as the subsequent transfer of technical data to support marketing of the T–50 Trainer within an authorized sales territory.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

July 31, 2009 (Transmittal No. DDTC 068–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the design and development of the command and control system as part of the Canadian Halifax Class Modernization Program for end-use by the Canadian Ministry of Defence.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 076–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to Japan for the manufacture of the Universal Turret System, M197 Gun, and M8E91 Feeder for the AH–1S Helicopter.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 077–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and defense articles to Thailand related to the sale of three S–92A helicopters to the Royal Thai Air Force.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 078–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services and hardware to the United Kingdom for the design, manufacture, and delivery of the QuetzSat-1 Commercial Communication Satellite.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 080–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to support the Proton launch of the ViaSat-1 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 082–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for export of technical data, defense services, and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the manufacture of Tomahawk Cruise Missile Subassemblies for end-use by the U.S. Navy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 083–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense services and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to Japan to support the manufacture of Chukar II and Chukar III Aerial Target Systems for the Ministry of Defense of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 084–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of technical data, defense services, and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the manufacture of Power Amplifier Modules and High Voltage Power Supplies for the AN/TQP–36 and AN/TQP–37 Firefinder Radars, and the AN/MPQ–64 Sentinel Radar for end-use by the U.S. government.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 085–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services related to the Laser Based Directional Infrared Countermeasures System for end-use by the United Kingdom Ministry of Defence.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 090–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Technical Assistance Agreement for the export of technical data, defense services, and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, technical data, and defense services related to the delivery and support of five Sentinel Radars and two Sentry Command and Control Systems for end-use by the Mexican Navy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

August 6, 2009 (Transmittal No. DDTC 098–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed permanent export license for the export of defense articles and technical data related to firearms in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and technical data related to sale of 394 Colt Infantry Automatic Rifles for use by the Mexican Navy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,

Assistant Secretary Legislative Affairs.

Dated: September 16, 2009.

Robert S. Kovac,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. E9–23585 Filed 9–29–09; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2009–0001–N–24]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on July 24, 2009 (74 FR 36807).

DATES: Comments must be submitted on or before October 30, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Nakia Jackson, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6470). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13, § 2,109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On July 24, 2009, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICR that the agency was seeking OMB approval. 74 FR 36807. FRA received no comments in response to this notice.

Before OMB decides whether to re-approve this proposed collection of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection requirement (ICR) and the expected burden. The ICR is being submitted for clearance by OMB as required by the PRA.

Title: State Safety Participation Regulations and Remedial Actions.

OMB Control Number: 2130–0509.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): FRA F 6180.33; FRA F 6180.61; FRA F 6180.67; FRA F 6180.96/96A; FRA F 6180.109; FRA F 6180.110; FRA F 6180.111; FRA F 6180.112.

Abstract: The collection of information is set forth under 49 CFR Part 212, and requires qualified state inspectors to provide various reports to FRA for monitoring and enforcement purposes concerning state investigative, inspection, and surveillance activities regarding railroad compliance with Federal railroad safety laws and regulations. Additionally, railroads are to report to FRA actions taken to remedy certain alleged violations of law.

Annual Estimated Burden Hours: 10,748.

Addresses: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503; Attention: FRA Desk Officer. Comments may also be sent via e-mail to OMB at the following address:

oira_submissions@omb.eop.gov.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on September 24, 2009.

Kimberly Orben,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. E9–23541 Filed 9–29–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 27590 (Sub-No. 3)]

TTX Company, et al.—Application for Approval of Pooling of Car Service With Respect to Flatcars

AGENCY: Surface Transportation Board.

ACTION: Notice of request for comments.

SUMMARY: In its decision in this proceeding served on August 31, 2004 (August 2004 decision), the Surface Transportation Board provided for the

monitoring of TTX Company (TTX) and the preparation of a monitoring report at the end of year 5 of the 10-year term authorized by the Board for TTX's pooling agreement. To facilitate preparation of the report and preparation of comments by interested parties, the Board is directing TTX and its members to provide certain operational information and then is seeking comments from interested parties on whether any of TTX's activities require any action or particular oversight by the Board at this time.

DATES: The information being sought from TTX and its members is due by November 16, 2009. Comments from interested parties are due by December 31, 2009.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies referring to STB Finance Docket No. 27590 (Sub-No. 3) to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Larry C. Herzig, (202) 245–0282. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: TTX owns and manages for the benefit of its participating Class I and Class II railroads an extensive fleet of specialized flatcars that are used in rail transportation of containers, truck trailers, automobiles, lumber, extra-dimensional loads, and other commodities. TTX was authorized to own and to manage these cars pursuant to a pooling agreement established under 49 U.S.C. 11322. Under 49 U.S.C. 11321, such authorization exempts TTX and the railroad participants in their pooling agreement from ''the antitrust laws and from all other law'' as necessary to allow the agreement to be carried out. In its August 2004 decision approving a 10-year extension of TTX's pooling authority,[1] the Board authorized TTX's to extend its pooling agreement for an additional 10-year term and clarified the authorized scope of TTX's agreement. For further details, see the Board's August 2004 decision.

The Board's August 2004 decision also required what was then the agency's Office of Compliance and Enforcement, now the Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC), to monitor TTX's operations and to prepare a monitoring report at the end of year 5 of the 10-year term that began on October 1, 2004. To carry out the monitoring process required in the August 2004 decision, we are first asking TTX and its members provide certain operational information described in the Board's full decision in this matter being served today. TTX's submission will be posted on the Board's web site.

Thereafter, shippers or other interested parties may comment on TTX's submission and whether any of TTX's activities require any action or particular oversight by this agency at this time. Any commenter wishing to express a concern about any of TTX's activities should fully describe the activity, the concern, and the type of Board action that the commenter believes is appropriate. The information filed by TTX and its members and any public comments will be reviewed as part of the monitoring process, and the agency will determine whether any further action is appropriate.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The Board is commencing the monitoring report process discussed in its August 2004 Decision.

2. TTX and its members must provide the requested information by November 16, 2009.

3. Shippers and other interested parties may file comments with the Board on whether any of TTX's activities pursuant to the Board-approved pooling agreement require any action or particular oversight by the Board at this time. Comments are due by December 31, 2009.

4. This notice will be published in the **Federal Register**.

5. This notice and the accompanying decision will be served on all parties appearing on the service list in STB Finance Docket No. 27590 (Sub-No. 3).

6. This decision is effective on September 25, 2009.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–23511 Filed 9–29–09; 8:45 am]

BILLING CODE 4915–01–P

[1] *See TTX Company, et al.—Application for Approval of Pooling of Car Service with Respect to Flat Cars,* STB Finance Docket No. 27590 (Sub-No. 3) (STB served Aug. 31, 2004).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Rail Grade Separation Project in Orange County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA, pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA is issuing this notice to announce actions taken by FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. Section 139(l)(1). The actions relate to the proposed Orange County Gateway rail grade separation project in the Cities of Placentia (local project proponent) and Anaheim, Orange County, California.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. Section 139(l)(1). A claim seeking judicial review of the Federal agency actions on the rail crossing will be barred unless the claim is filed on or before March 29, 2010. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Scott K. McHenry, Senior Transportation Engineer, 650 Capital Mall, Suite 4–100, Sacramento, California 95814; phone: (916) 498–5854; fax (916) 498–5008; e-mail *Scott.mchenry@dot.gov*; regular office hours 8 a.m. to 5 p.m. For the City of Placentia, Michael McConaha, Senior Administrative Analyst, City of Placentia, 401 East Chapman Avenue, Placentia, California 92870; phone: (714) 993–8245; fax: (714) 961–0283; e-mail *mmcconaha@placentia.org*; regular office hours 8 a.m. to 5 p.m.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Highway Administration (FHWA) has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following rail grade separation project in the State of California. The purpose of the Orange County Gateway (OCG) project is to

alleviate current and potential environmental impacts and hazards associated with traffic congestion at existing at-grade crossings along an approximately 5-mile long segment of the Burlington Northern Santa Fe (BNSF) railroad tracks in the Cities of Placentia and Anaheim and unincorporated Orange County, in Orange County, California. The OCG project will provide grade separations on eight local arterials at their crossings with the BNSF tracks. The OCG project is subject to federal, as well as City of Placentia and State, environmental review requirements because the City proposes the use of federal funds from FHWA. Project documentation, therefore, was prepared in compliance with both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The FHWA project reference number is FHWA–EIS–CA21. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on June 30, 2009 in the FHWA Record of Decision (ROD) issued on September 23, 2009, and in other documents in the FHWA project records. The FEIS, ROD, and other project records are available by contacting FHWA or the City of Placentia at the addresses provided above. Pending federal actions for the project are:

- United States Army Corps of Engineers 404 permit under the Federal Clean Water Act (CWA).
- 401 Water Quality Certification from the Regional Water Quality Control Board under Section 401 permit of the Federal CWA.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality regulations.
2. National Environmental Policy Act (NEPA).
3. Department of Transportation Act of 1966.
4. Federal Aid Highway Act of 1970.
5. Clean Air Act Amendments of 1990.
6. Clean Water Acts of 1977 and 1987.
7. Endangered Species Act of 1973.
8. Migratory Bird Treaty Act.
9. Farmland Protection Policy Act of 1981.
10. Title VI of the Civil Rights Act of 1964.
11. Uniform Relocation Assistance and Real Property Acquisition Act of 1970.
12. National Historic Preservation Act of 1966.
13. Historic Sites Act of 1935.
14. Executive Order 11990, Protection of Wetlands.
15. Executive Order 13112, Invasive Species.
16. Executive Order 11988, Floodplain Management.
17. Executive Order 12898, Environmental Justice.

Authority: 23 U.S.C. Section 139(l)(1).

Issued on: September 24, 2009.

Walter C. Waidelich, Jr.,

Division Administrator, Federal Highway Administration, Sacramento, California.

[FR Doc. E9–23566 Filed 9–29–09; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. 2009–0095, Notice No. 1]

RIN: 2130–AB90

High-Speed Passenger Rail Safety Strategy; Highway-Rail Grade Crossing Guidelines for High-Speed Passenger Rail: Creation of Docket

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: On June 17, 2009, FRA issued a Notice of Funding Availability and Interim Program Guidance detailing the application requirements for obtaining funding for high-speed rail projects under the American Recovery and Reinvestment Act of 2009 and the Department of Transportation Appropriations Acts for fiscal year (FY) 2008 and FY 2009. The Notice and Interim Guidance was published in the **Federal Register** on June 23, 2009. FRA is currently evaluating grant applications submitted in the first round of the application process, in accordance with evaluation criteria included in the Interim Guidance. FRA will also develop high-speed passenger rail (HSPR) safety strategy and highway-rail grade crossing guidelines for HSPR as part of a plan to address the Nation's transportation challenges by investing in an efficient, high-speed passenger rail network of 100-mile to 600-mile intercity corridors that connect communities across America.

To date, FRA has received more than 30 comments on its HSPR Safety Strategy and Grade Crossing Guidelines, and FRA anticipates that the current high level of interest in high-speed rail projects will continue. For this reason, FRA is creating a combined docket for comments on the HSPR Safety Strategy and Grade Crossing Guidelines. FRA will place previously published documents and previously received comments in this docket to make these materials available to the public. This docket will be kept open indefinitely, since FRA is interested in receiving comments from all interested parties. Comments filed as soon as practicable will be of the greatest use.

ADDRESSES: Comments related to this docket, FRA–2009–0095, may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Please note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc*). You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (Volume 65, Number 70, Pages 19477–78), or you may visit *http://DocketsInfo.dot.gov*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or go to the street address listed above between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Woolverton, Railroad Safety Advisory Committee Coordinator, Office of Railroad Safety, W35–340, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, 202–493–6212.

Issued in Washington, DC on September 24, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–23540 Filed 9–29–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixth Meeting, Special Committee 213/EUROCAE WG 79: Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 213/EUROCAE WG 79: Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS).

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 213/EUROCAE WG 79: Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS).

DATES: The meeting will be held November 3–5, 2009. Sign-in: 8:30 a.m. on November 3, 2009. Meeting: 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at Dassault Aviation, 78 quai Marcel Dassault, 92214 Saint-Cloud, France, *http://www.dassault-aviation.com.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 213/EUROCAE WG 79: Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS) meeting. The agenda will include:

Tuesday, November

- Sign-in at 8:30 a.m.
- 9 a.m.–11:30 a.m.—Plenary (including break)
  - Welcome, introductions, review agenda, minutes approval, and objectives
  - Plenary work group updates, action item review
  - Plenary briefings
- 1 p.m.–5 p.m.—Separate work group 1 and 2 discussions (including break)

Wednesday, November 4

- 9 a.m.–5 p.m.—Separate work group 1 and 2 discussions (including break)

Thursday, November 5

- 9 a.m.–5 p.m.—Plenary (including break)
  - Agree on draft MASPS
  - Review action items
  - Review administrative items

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 23, 2009.

James H. Williams,

RTCA Advisory Committee.

[FR Doc. E9–23529 Filed 9–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Meeting, RTCA Special Committee 223: Airport Surface Wireless Communications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 223: Airport Surface Wireless Communications meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 223: Airport Surface Wireless Communications.

DATES: The meeting will be held November 3–4, 2009 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street, NW., Suite 805, RTCA Conference Rooms, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 223: Airport Surface Wireless Communications meeting. The agenda will include:

Tuesday, November 3, 2009

- Opening Session (Welcome, Introductions, Administrative Remarks)
- Special Committee Leadership
- *Designated Federal Official (DFO):* Mr. Brent Phillips
- *Co-Chair:* Mr. Aloke Roy, Honeywell International
- *Co-Chair:* Mr. Ward Hall, ITT Corporation
- RTCA Specific Information: Mr. Rudy Ruana, RTCA Program Director for SC–223
- Agenda Overview
- RTCA Functional Overview
- Airport Surface Wireless Communications—Background, History, Status, Industry Related Activities
- Background on Aeronautical Information Services Datalink, RTCA SC–206/EUROCAE WG–76
- Background on Eurocontrol Future Communication Infrastructure Study on Airport Surface Communications
- Other presentations, discussions, and recommendations
- Review of authorizing document (Terms of Reference) as approved by RTCA Program Management Committee on August 7, 2009
- Actions and plans for items on TOR

Wednesday, November 4, 2009

- Organization of Work, Assign Tasks and Workgroups as necessary
- Selection of Secretary for SC–223
- Presentation, Discussion, Recommendations, Assignment of Responsibilities
- Consider Liaison with other RTCA Special Committees
- Establish Agenda, Date and Place for the next plenary meeting
- Review of Meeting summary report
- Adjourn—Expected by 2 p.m. on November 4

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 23, 2009.

James H. Williams,

RTCA Advisory Committee.

[FR Doc. E9–23532 Filed 9–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifth Meeting—RTCA Special Committee 217/EUROCAE WG 44 Plenary: Airport Mapping Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 217/EUROCAE WG 44 Plenary meeting: Airport Mapping Databases.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 217/ EUROCAE WG 44.

DATES: The meeting will be held on October 26–30, 2009, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at Rockwell Collins Office, 3350 Monte Villa Parkway, Suite 200, Bothell, WA 98021. Contact: Brian Gilbert, 425–492–1309, 425–891–8219 (cell), *bdgilber@rockwellcollins.com*

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 217/EUROCAE WG 44 Plenary: Airport Mapping Databases meeting. The agenda will include:

Monday, October 26

- 9 a.m.—Opening Plenary
  - Chairmen's remarks and introductions
  - Approve minutes from previous meeting
  - Review and approve meeting agenda
  - Discussion
  - Schedule for this week
  - Schedule for next meetings
  - Action Items
- 10 a.m.—Presentations
  - FAA Airports GIS database—Mike Burski
  - Airport Resolution Standards—Lisa Haskell
  - Report on Connectivity Items—Christian Pschierer
- 2 p.m.—Terrain, Obstacle, and Airport Mapping discussions
  - Discussion on AMDB and ICAO Recommendations

Tuesday, October 27

- 9 a.m.—Terrain, Obstacle, and Airport Mapping discussions
- 1 p.m.—Address Outcome from ''Roadmap Items'' (outcome from assigned actions)

Wednesday, October 28

- 9 a.m.—Joint Meeting with SC–214/ WG78
- 1 p.m.—Terrain, Obstacle, and Airport Mapping discussions

Thursday, October 29

- 9 a.m.—Terrain, Obstacle, and Airport Mapping discussions

Friday, October 30

- 9 a.m.—Terrain, Obstacle, and Airport Mapping discussions
- 10:30 a.m.—Plenary Session
  - Other Business, Determine and agree on action plan, Meeting Plans and Dates

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 24, 2009.

Kimberly Gill,

RTCA Advisory Committee.

[FR Doc. E9–23528 Filed 9–29–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2009–0158]

Pipeline Safety: Weldable Compression Coupling Installation

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice; Issuance of Advisory Bulletin.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) reminds pipeline owners and operators of the importance of installing weldable compression couplings in accordance with manufacturer procedures and following appropriate safety and start-up procedures. The failure to install weldable compression couplings correctly, or the failure to implement and follow appropriate safety and start-up procedures, could result in a catastrophic pipeline failure. PHMSA strongly urges operators to review, and incorporate where appropriate into operators' written procedures, the manufacturer's installation procedures and take any other necessary safety measures for safe and reliable operation of pipeline systems.

FOR FURTHER INFORMATION CONTACT: Ivan Huntoon by phone at (816) 329–3829 or by e-mail at *ivan.huntoon@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In 2007, a crude oil release occurred during maintenance activities on a major oil pipeline. The escaping crude oil ignited and resulting in two fatalities. When this incident occurred the operator was performing a pipe replacement using pre-tested pipe and weldable compression couplings. The failure occurred during start-up operations when the forces associated with pipeline operations exceeded the restraining capability of the unfinished replacement assembly. As pressure increased, movement of the piping occurred resulting in the eventual separation of the pipe from the weldable compression coupling. There was sufficient mechanical breakdown and the escaping crude oil created a flammable vapor-air mixture which ignited a few seconds after the release began. The pipeline was being re-started to allow for welding of the compression couplings to the pipe when the release occurred. The failure occurred while pressure and flow were increasing.

The weldable compression couplings use radial bolts (clamp screws) to attach the compression coupling to the surface of the pipeline. Once attached, longitudinal bolts apply pressure to a steel ring and neoprene seal which expands, providing a compressive seal between the weldable compression coupling and exterior surface of the pipe. The compression couplings are designed to be fillet welded to the pipe surface after bolting and sealing, making them a permanent welded repair.

In the above referenced incident, the weldable compression couplings had been modified prior to the installation by cutting off approximately half of the clamping bolts which reduced the restraining capability of the replacement assembly. The manufacturer's installation procedures did not authorize this modification. In addition, operators' procedures specific to the installation of compression couplings must provide sufficient guidance for their employees to determine whether a pipeline is fully anchored prior to welding. In the above referenced incident, the manufacturer's literature described a pipeline in the anchored condition as being ''restricted from movement in all directions'' and the operating pressure chosen by the operator to be sustained for welding was based on the manufacturer's recommendation for a fully anchored installation. However, the physical

characteristics of the installation indicated that it was not fully anchored and that it needed to be limited to a much lower maximum safe working pressure. Operator personnel must be specifically trained and qualified for the installation of weldable compression couplings including ensuring that the extent to which the pipeline is not fully anchored is taken into account when determining the maximum safe working pressure.

To ensure safety, pipeline operators using weldable compression couplings must ensure personnel are trained and qualified to perform the installation. Also, operators must ensure their procedures accurately incorporate manufacturers' procedures and limitations on the use of weldable compression couplings and ensure that the procedures are available, understood and followed by personnel. PHMSA believes that the risk of compromising safety posed by unauthorized modifications to weldable compression couplings is unacceptable. PHMSA strongly recommends that any field changes in the installation process (i.e., modifications allowed by a component manufacturer) that could affect component performance and safety be subject to a documented authorization process, communicated to appropriate personnel, and be reflected by allowable working pressures. Allowable working pressures vary greatly between anchored and un-anchored installations. In order to use the pressure rating for an anchored installation, the operator must verify the pipeline is anchored in all directions in accordance with company and manufacturer procedures prior to pipeline start-up. To ensure safety for personnel, property and the environment, pipeline start-up procedures must be available and followed. Finally, any failure to identify and restrict access to hazard zones during pressurization of exposed pipeline sections could compromise safety.

II. Advisory Bulletin ADB–09–02

To: Owners and Operators of Hazardous Liquid and Natural Gas Pipelines.

Subject: Weldable Compression Couplings.

Advisory: The Pipeline and Hazardous Materials Safety Administration (PHMSA) advises operators of hazardous liquid and natural gas pipelines installing or planning to install weldable compression couplings and similar repair devices to follow manufacturer procedures to ensure correct installation. In addition, PHMSA also advises these operators to follow the appropriate safety and start-up procedures to ensure the safety of personnel and property and protect the environment. The failure to install a weldable compression coupling correctly, or the failure to implement and follow appropriate safety and start-up procedures, could result in a catastrophic pipeline failure. PHMSA strongly urges operators to review, and incorporate where appropriate into operators' written procedures, the manufacturer's installation procedures and any other necessary safety measures for safe and reliable operation of pipeline systems.

Issued in Washington, DC September 23, 2009.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E9–23527 Filed 9–29–09; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Docket No. FTA–2009–0010]

Urbanized Area Formula Program: Proposed Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Availability of Proposed Circular.

SUMMARY: The Federal Transit Administration (FTA) has placed in the docket and on its Web site, proposed guidance in the form of a circular to assist grantees in implementing the Urbanized Area Formula Program (Section 5307). The Urbanized Area Formula Program provides grants for capital, planning, and some operating projects in urbanized areas. By this notice, FTA invites public comment on the proposed circular 9030.1D, Urbanized Area Formula Program: Program Guidance and Application Instructions for the program.

DATES: Comments must be submitted by November 30, 2009. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by the docket number [FTA–2009–0010] by any of the following methods:

1. *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the online instructions for submitting comments on the U.S. Government electronic docket site.

2. *Fax:* 202–493–2251.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Ave., SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Ave., SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name (Federal Transit Administration) and Docket number (FTA–2009–0010) for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to *www.regulations.gov* including any personal information provided and will be available to internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477). *Docket:* For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time or to the U.S. Department of Transportation, 1200 New Jersey Ave., SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Henrika Buchanan-Smith, Office of Program Management, Federal Transit Administration, 1200 New Jersey Ave., SE., East Building, Fourth Floor, Washington, DC 20590, phone: (202) 366–5080, fax: (202) 366–7951, or e-mail, *Henrika.Buchanan-Smith@dot.gov;* or Richard Wong, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave., SE., East Building, Fifth Floor, Washington, DC 20590, phone: (202) 366–0675, fax: (202) 366–3809, or e-mail, *Richard.Wong@dot.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

F. Chapter VI—Program Management and Administrative Requirements
G. Chapter VII—Other Provisions
H. Appendices

I. Overview

This notice provides a summary of proposed changes to FTA Circular 9030.1C, Urbanized Area Formula Program: Grant Application Instructions. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, signed into law on August 10, required changes to the Urbanized Area Formula Program (Section 5307 program). FTA is updating the existing circular, developed in 1998, to reflect changes in the law. The final circular, when adopted, will supersede the existing circular.

This document does not include the proposed circular; an electronic version is available on FTA's Web site, at *http://www.fta.dot.gov*. Paper copies of the circular may be obtained by contacting FTA's Administrative Services Help Desk, at (202) 366–4865.

Readers familiar with the existing FTA Circular 9030.1C will notice that FTA is proposing a complete reorganization to make this circular consistent with the style of other circulars FTA is updating. Substantive changes in content are discussed in the chapter-by-chapter analysis.

II. Chapter-by-Chapter Analysis

A. Chapter I—Introduction and Background

Chapter I of the proposed circular is an introductory chapter and covers general information about FTA and how to contact us, briefly reviews the authorizing legislation for the Urbanized Area Formula program (a.k.a. ''Section 5307 program''), provides information about Grants.gov, includes definitions applicable to the program and provides a brief program history. The definitions section is new to this circular, and includes definitions related to the Section 5307 program. Where applicable, we have used the same definitions found in rulemakings or other circulars to ensure consistency.

In the existing circular, Chapter I includes a number of topics that have been relocated in the proposed circular. We have renamed the existing section, ''Other Funds Available for Transit Projects,'' as ''Relationship to Other Programs'' for consistency with other circulars, and moved the section to Chapter II. We propose moving the information regarding ''flexible funds'' to the ''Relationship to Other Programs'' section in proposed Chapter II, and propose moving information on apportionments and local and federal share to Chapter III. In addition, we have removed or streamlined some information in the existing Chapter I. For example, we propose removing the section on ''Codification of Federal Transit Laws'' as it is no longer pertinent, and we have incorporated the information in the section, ''Grant Application Process'' into other sections of the proposed circular.

B. Chapter II—Program Overview

Chapter II of the existing circular, ''Applicant Eligibility'' is limited to a discussion about designated recipients. This information has been updated and is included in the proposed Chapter II, in addition to more detail about the Urbanized Area Formula program. Chapter II of the proposed circular starts with the statutory authority for the Urbanized Area Formula program, followed by the goals of the program, recipient designation, the roles of the designated recipient and FTA, a discussion about transportation management areas, FTA oversight, and the relationship of the Urbanized Area Formula Program to other FTA programs. The information found in this proposed chapter is consistent with other circulars FTA has recently updated.

C. Chapter III—General Program Information

Chapter III of the existing circular, ''Eligible Grant Activities,'' addresses eligible capital, operating and planning activities, as well as pre-award authority, letters of no prejudice, and advance capital project authority. Eligible projects continue to be in Chapter III and the lists have been updated consistent with changes made by SAFETEA–LU. Advance capital project authority also remains in Chapter III. Transportation development credits (formerly referred to as toll revenue credits) has been added to the proposed Chapter III to provide a calculation method that is consistent with the method used by FHWA. We propose moving preventive maintenance into Appendix E due to the length and complexity of the topic. We propose moving pre-award authority, and letters of no prejudice to Chapter IV. Additional information addressed in the proposed Chapter III includes apportionments, funds availability, and local and federal share. All of these sections have been updated to be consistent with the law and with the format of other recently revised FTA circulars.

D. Chapter IV—Program Development

The existing Chapter IV, ''Apportionments'' addresses how funds are apportioned under the urbanized area formula, as well as transfers of apportionments. These sections have been moved to the proposed Chapter III. The proposed Chapter IV, ''Program Development,'' addresses the role of the designated recipient and the metropolitan planning organization (MPO), applicants other than designated recipients, pass-through arrangements (formerly found in Chapter II); subarea allocation and transfer of funds for highway projects (formerly found in Chapter IV), planning requirements (formerly in Appendix A); program of projects and public participation requirements, and certifications and assurances (formerly found in Chapter V), and undertaking projects in advance, a catch-all section for pre-award authority, and letters of no prejudice (formerly found in Chapter III).

FTA has revised each of these sections to reflect changes in statutes, regulations, and/or FTA policy. We also propose streamlining some sections, such as planning, while expanding others, such as certifications and assurances, to provide more detailed information.

E. Chapter V—Coordinated Planning

The proposed Chapter V addresses the coordinated planning process required for the Section 5310, Elderly Individuals and Individuals with Disabilities formula program; the Section 5316, Job Access and Reverse Commute (JARC) program; and the Section 5317, New Freedom program. Often the designated recipient for the Urbanized Area Formula program will also be the designated recipient for one or more of these human services transportation programs. The proposed Chapter V contains substantially the same information as that found in FTA Circular 9040.1F, Nonurbanized Area Formula Program Guidance and Grant Application Instructions.

The information found in the existing Chapter V, ''Requirements Associated with Urbanized Area Formula Program Grants'' has all been relocated to other chapters or eliminated. The section, ''National Transit Database Reporting System'' has been updated and moved to the proposed Chapter VI. We have provided a link to the FTA Web site as well as to the Transportation Electronic Award Management (TEAM) system, where applicants can find the instructions. We propose moving the ''Certification Procedures'' to the proposed Chapter IV. The section on

''FTA Oversight'' has been updated and moved to the proposed Chapter II. The ''Certifications Particular to the Urbanized Area Formula Program'' section has been renamed, ''Certifications Required by 49 U.S.C. 5307'' and moved to Chapter IV. We propose moving the updated information on program of projects and public participation requirements to Chapter IV.

Finally, we propose eliminating the ''Alphabetical List of Other Requirements.'' The substance of that section has been moved to other chapters. Updated information related to ''Associated Capital Maintenance Items,'' ''New Technology Introduction'' and ''Lease vs. Buy Considerations'' can be found in Chapter III, under ''Capital Projects;'' updated information on ''Buses,'' ''Bus Facilities'' and ''Fixed Guideway Rolling Stock,'' is in proposed Chapter VI. We have consolidated the information on buses and rolling stock and renamed the section, ''Requirements Related to Rolling Stock and Equipment.'' We propose removing the section on ''New Starts;'' information on how the New Starts program relates to the Urbanized Area Formula program is in Chapter II. Updated information on the rest of the content of existing Chapter V is in proposed Chapter VII.

F. Chapter VI—Program Management and Administrative Requirements

The content of existing Chapter VI, ''Application Instructions,'' has been updated, streamlined, and moved to Appendix A. The proposed Chapter VI contains information on the TEAM system, Electronic Clearing House Operation (ECHO system, and, as previously discussed, information on the National Transit Database, requirements related to vehicles and equipment, and requirements related to facilities. The information in this chapter is consistent with that found in other recently updated FTA circulars.

G. Chapter VII—Other Provisions

Chapter VII of the existing circular contains instructions for preparing a project budget. This information has been updated and moved to Appendix B, consistent with other recently revised FTA circulars. The proposed Chapter VII is similar to the ''Other Provisions'' chapters in other FTA circulars, and summarizes a number of FTA-specific and other Federal requirements that FTA grantees are held to in addition to the program-specific requirements and guidance provided in the circular. As previously stated, some of the information has been relocated from the existing Chapter V's ''Alphabetical Listing of Other Requirements.'' Other sections, including charter bus, commercial driver's license, and the presidential coin act are new to this circular. Recipients should use this chapter, in conjunction with FTA's ''Master Agreement'' and the current fiscal year ''Certifications and Assurances,'' to assure that they have met all requirements. Recipients may contact FTA Regional Counsel for more detail about these requirements.

G. Appendices

The proposed appendices are intended as tools for developing a grant application. Appendix A specifically addresses steps and instructions for preparing a grant application, including pre-application and application stages. This information is comparable to Chapter VI, ''Application Instructions,'' in the existing circular, although it has been updated and reorganized. Appendix A also includes an application checklist. Proposed Appendix B provides budget information, including a sample budget, and compares with the information found in Chapter VII, ''Instructions for Preparing a Project Budget,'' in the existing circular. Proposed Appendix C compares with existing Appendix D, ''Operating Assistance Projects,'' in the existing circular. Proposed Appendix D, which compares with existing Appendix F, ''Forms and Representative Documents,'' in the existing circular (except the documents we propose removing, as described below), contains samples of an Authorizing Resolution, Opinion of Counsel, Fleet Status, Proceeds from the Sale of Public Transportation Assets, Like-Kind Exchange Example and Sample Supplemental Agreement. Proposed Appendix E contains a description of the preventive maintenance program, and is new to this circular. Proposed Appendix F contains updated contact information for all of FTA's regional and metropolitan offices; this information is in Chapter VIII of the existing circular.

We propose removing most of the contents of Appendix A of the existing circular, ''Transportation Planning Process,'' and instead including a paragraph referencing the planning regulations in Chapter IV of the proposed circular. We propose removing most of the content of existing Appendix B, ''Apportionment Formula,'' and relocating the basic formula in Chapter III of the proposed circular. We propose removing the content of existing Appendix C, ''New Start Development Process,'' and direct readers to the most recent revision of FTA Circular 9300, ''Capital Investment Program Guidance and Application Instructions,'' for information on New Starts.

We have relocated the existing Appendix D, ''Operating Assistance Projects'' to proposed Appendix C. The information has been updated, and we propose moving the sections relating to eligible projects and federal/local share to Chapter III. We propose removing the existing Appendix E, ''Procedures Related to Flexible Funding'' and we have relocated the substance to Chapter II and Appendix A. The existing Appendix F, ''Forms and Representative Documents'' compares to the proposed Appendix D. We have removed some of the sample forms, namely the Application, Lobbying Disclosure Form, Project Milestone Schedule and Subregional Allocation. The application is submitted and reviewed entirely online in TEAM and all the forms can be viewed online. The lobbying form is also available online. We propose removing the existing Appendix G, which contains information on certifications and assurances, much of which has been moved to proposed Chapter IV. We propose removing the Sample Certifications and Assurances, as this is something that is updated every year and available on FTA's Web site. We propose moving the information in Appendix H, ''Interest as an Eligible Capital Cost'' to the proposed Chapter III with other eligible projects.

FTA seeks public comment on the changes within proposed FTA Circular 9030.1D.

Issued in Washington, DC, this 25th day of September 2009.

Peter Rogoff,

FTA Administrator.

[FR Doc. E9–23584 Filed 9–29–09; 8:45 am]

BILLING CODE

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of extension of deadline for individuals to apply to be appointed to the membership of the Victims Advisory Group.

SUMMARY: The United States Sentencing Commission is issuing this notice to advise the public that the application period for membership in the Victims Advisory Group has been extended to

November 30, 2009. The deadline was originally August 10, 2009.

This application period is extended to ensure sufficient time for any individual who has knowledge, expertise, and/or experience in the area of Federal crime victimization to apply.

SUPPLEMENTARY INFORMATION: The Victims Advisory Group of the United States Sentencing Commission is a standing advisory group of the United States Sentencing Commission pursuant to 28 U.S.C. 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure. Under the charter for the Victims Advisory Group, the purpose of the advisory group is (1) to assist the Commission in carrying out its statutory responsibilities under 28 U.S.C. 994(o); (2) to provide to the Commission its views on the Commission's activities and work, including proposed priorities and amendments, as they relate to victims of crime; (3) to disseminate information regarding sentencing issues to organizations represented by the Victims Advisory Group and to other victims of crime and victims advocacy groups, as appropriate; and (4) to perform any other functions related to victims of crime as the Commission requests. Under the charter, the advisory group consists of not more than nine members, each of whom may serve not more than two consecutive three-year terms. Each member is appointed by the Commission.

In view of vacancies in the membership of the advisory group, the Commission invites any individual who has knowledge, expertise, and/or experience in the area of Federal crime victimization to apply to be appointed to the membership of the Victims Advisory Group. The Commission issued an invitation to apply for membership of the Victims Advisory Group on June 10, 2009 (74 FR 27586). Applications were initially due to the Commission on August 10, 2009. The Commission hereby invites additional applications from individuals who have knowledge, expertise, and/or experience in the area of Federal crime victimization. Applications should be received by the Commission not later than November 30, 2009. Applications may be sent to Michael Courlander at the address listed below.

DATES: Applications for membership of the Victims Advisory Group should be received not later than November 30, 2009.

ADDRESSES: Send applications to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, South Lobby, Washington, DC 20002–8002, Attention: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4597.

Authority: 28 U.S.C. 994(a), (o), (p), 995; USSC Rules of Practice and Procedure 5.2, 5.4.

Ricardo H. Hinojosa,

Acting Chair.

[FR Doc. E9–23574 Filed 9–29–09; 8:45 am]

BILLING CODE 2210–40–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Women Veterans will meet on October 27–29, 2009, in the Pan American Room at the Capital Hilton, 1001 16th Street, NW., Washington, DC, from 8:30 until 4:30 p.m., each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

The agenda will include updates on recommendations from the 2006 and 2008 reports, and briefings on VA/National Guard and Reserves initiatives, prosthetic services for women Veterans, Veterans employment initiatives, readjustment counseling, and homeless initiatives for women Veterans.

Any member of the public wishing to attend should contact Ms. Shannon L. Middleton at the Department of Veterans Affairs, Center for Women Veterans (00W), 810 Vermont Avenue, NW., Washington, DC 20420, by phone at (202) 461–6193, fax at (202) 273–7092, or e-mail at *00W@mail.va.gov.* Interested persons may attend, appear before, or file statements with the Committee. Written statements must be filed before the meeting, or within 10 days after the meeting.

Dated: September 25, 2009.

By Direction of the Secretary.

Vivian Drake,

Acting Committee Management Officer.

[FR Doc. E9–23577 Filed 9–29–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463

(Federal Advisory Committee Act) that the Advisory Committee on Disability Compensation will meet on October 19–20, 2009, in the Carlton Ballroom at the St. Regis, 923 16th and K Streets, NW., Washington DC, from 8:30 a.m. to 5 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising from service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule and give advice on the most appropriate means of responding to the needs of veterans relating to disability compensation.

On October 19, the Committee will receive briefings from representatives about medical aspects of Veteran's disability compensation procedures and programs, VA Schedule for Rating Disabilities, Veterans centers challenges and how they are being met, and Veterans service organizations resolutions and/or legislative issues pertaining to the mission of the Committee.

On October 20, the Committee will receive briefings from representatives about quality of life from the VA vocational rehabilitation perspective, loan guarantee programs, the adjustment/impact due to medical condition relating to quality of life, and the Institute of Medicine's study on reintegration of military personnel.

Time will be allocated for receiving public comments at 1 p.m. on October 19. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come, first-served basis. Individuals who speak are invited to submit 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record.

The public may submit written statements for the Committee's review to Ms. Ersie Farber, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration (211A), 810 Vermont Avenue, NW., Washington, DC 20420. Any member of

the public wishing to attend the meeting or seeking additional information should contact Ms. Farber at (202) 461–9728 or *Ersie.farber@va.gov.*

Dated: September 25, 2009.

By Direction of the Secretary.

Vivian Drake

Acting Committee Management Officer.

[FR Doc. E9–23579 Filed 9–29–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Prosthetics and Special Disabilities Programs will be held November 3–4, 2009, in Room C–7 at VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The sessions will convene at 8:30 a.m. on both days and will adjourn at 4:30 p.m. on November 3 and noon on November 4. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special disability programs which are defined as any program administered by the Secretary to serve Veterans with spinal cord injury, blindness or visual impairment, loss of extremities or loss of function, deafness or hearing impairment, and other serious incapacities in terms of daily life functions.

On November 3, the Committee will be briefed by the Acting Director, Physical Medicine and Rehabilitation, Office of Facilities Management, and the Chief of Prosthetics and Clinical Logistics. On November 4, the Committee will be briefed by a representative from the Office of Quality and Performance.

No time will be allocated for receiving oral presentations from the public. However, members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Mr. Larry N. Long, Designated Federal Officer, Veterans Health Administration, Patient Care Services, Rehabilitation Services (117D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or by e-mail at *lonlar@va.gov.* Any member of the public wishing to attend the meeting should contact Mr. Long at (202) 461–7354.

Dated: September 25, 2009.

By Direction of the Secretary.

Vivian Drake,

Acting Committee Management Officer.

[FR Doc. E9–23581 Filed 9–29–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
September 30, 2009

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926
Hazard Communication; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA–H022K–2006–0062 (formerly Docket No. H022K)]

RIN 1218–AC20

Hazard Communication

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; request for comments.

SUMMARY: OSHA is proposing to modify its existing Hazard Communication Standard (HCS) to conform with the United Nations' (UN) Globally Harmonized System of Classification and Labelling of Chemicals (GHS). OSHA has made a preliminary determination that the proposed modifications will improve the quality and consistency of information provided to employers and employees regarding chemical hazards and associated protective measures. The Agency anticipates this improved information will enhance the effectiveness of the HCS in ensuring that employees are apprised of the chemical hazards to which they may be exposed, and in reducing the incidence of chemical-related occupational illnesses and injuries.

The proposed modifications to the standard include revised criteria for classification of chemical hazards; revised labeling provisions that include requirements for use of standardized signal words, pictograms, hazard statements, and precautionary statements; a specified format for safety data sheets; and related revisions to definitions of terms used in the standard, requirements for employee training on labels and safety data sheets. OSHA is also proposing to modify provisions of a number of other standards, including standards for flammable and combustible liquids, process safety management, and most substance-specific health standards, to ensure consistency with the modified HCS requirements.

DATES: *Written comments.* Written comments, including comments on the information collection determination described in Section VIII of the preamble (OMB Review under the Paperwork Reduction Act of 1995), must be submitted by the following dates:

Hard copy: Comments must be submitted (postmarked or sent) by December 29, 2009.

Facsimile and electronic transmissions: Comments must be sent by December 29, 2009.

Informal public hearings. The Agency will schedule an informal public hearing on the proposed rule. The location and date of the hearing, procedures for interested parties to notify the Agency of their intention to participate, and procedures for participants to submit their testimony and documentary evidence will be announced in the **Federal Register.**

ADDRESSES: *Written comments.* You may submit comments by any of the following methods:

Electronically: You may submit comments electronically at *http://www.regulations.gov,* which is the Federal e-Rulemaking Portal. Follow the instructions on-line for making electronic submissions.

Fax: If your submissions, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger or courier service: You must submit three copies of your comments to the OSHA Docket Office, Docket No. OSHA–H022K–2006–0062, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., E.T.

Instructions: All submissions must include the Agency name and the docket number for this rulemaking (Docket No. OSHA–H022K–2006–0062). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting personal information such as social security numbers and birthdates.

Docket: To read or download comments submitted in response to this **Federal Register** notice, go to Docket No. OSHA–H022K–2006–0062 at *http://www.regulations.gov* or to the OSHA Docket Office at the address above. All comments are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through that Web page. All comments, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Electronic copies of this **Federal Register** document are available at *http://regulations.gov.* Copies also are available from the OSHA Office of Publications, Room N–3101, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1888. This document, as well as news releases and other relevant information, are also available at OSHA's Web page at *http://www.osha.gov.*

FOR FURTHER INFORMATION CONTACT: For general information and press inquiries, contact Jennifer Ashley, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999. For technical information, contact Maureen O'Donnell, Directorate of Standards and Guidance, Room N–3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1950.

SUPPLEMENTARY INFORMATION:

I. Introduction

The preamble to the proposal to modify the Hazard Communication Standard includes a review of the events leading to the proposal, a discussion of the reasons why OSHA believes these modifications are necessary, the preliminary economic and regulatory flexibility analysis for the proposal, and an explanation of the specific provisions set forth in the proposed standard. The discussion follows this outline:

In the preamble, OSHA references a number of supporting materials. References to these materials are given as ''Document ID#'' followed by the last four digits of the document number. The referenced materials are posted in Docket No. OSHA–H022K–2006–0062 (which is available at *http://www.regulations.osha.gov*). The documents are also available at the OSHA Docket Office (see **ADDRESSES** section above). For further information about accessing documents referenced in this **Federal Register** notice, *see* Section XIV (Public Participation—Notice of Hearing).

II. Issues

OSHA requests comment on all relevant issues, including economic impact and feasibility, environmental impact, effects on small entities, proposed revisions to the HCS, and subsequent modifications to other standards. OSHA has received many comments on the issues raised in the Advance Notice of Proposed Rulemaking (ANPR) (71 FR 53617, September 12, 2006), and the Agency has considered those comments in the development of this proposal. This section identifies issues on which the Agency seeks additional information and comment to supplement that received in response to the ANPR, as well as new topics related to this proposal. While new comments are welcome, OSHA requests that comments submitted in response to the ANPR not be resubmitted as they are retained in the rulemaking record and reconsidered throughout the process.

OSHA is including these issues at the beginning of the document to assist readers as they consider the comments they plan to submit. However, to fully understand the questions and provide substantive input in response to them, the parts of the preamble that address these issues in detail should be read and reviewed. These include Section VII, which addresses the impacts of the NPRM, and thus provides the background related questions 2 through 5. Section XV provides the Summary and Explanation of the proposed regulatory text, and Section XVII is the text itself. These are key to understanding questions 6 through 26. It should be noted that the Federal Register's required format for a modification of an existing standard does not allow the Agency to provide the full text of the rule, *i.e.,* the regulatory text in this document only addresses those paragraphs that OSHA is proposing to change. Therefore, the Agency is putting a marked up version of the text of the current rule on its web page to help readers understand the proposed changes in context. The marked up text will be found on *www.osha.gov* under Hazard Communication in the subject index.

OSHA requests that comments be organized, to the extent possible, around the following issues and numbered questions. Submitting comments in an organized manner and with clear reference to the issue raised will enable all participants to easily see what issues the commenter addressed and how they were addressed. This is particularly important in a rulemaking such as GHS which affects many diverse industries. Many commenters, especially small businesses, are likely to confine their interest (and comment) to the issues that affect them, and they will benefit from being able to quickly identify comment on their issues in others' submissions. Of course, OSHA also welcomes relevant comments concerning the proposal that fall outside the issue questions raised in this section. However, the Agency is particularly interested in receiving public responses, supported by evidence and reasons, to the following questions:

Need and Support for the Standard

1. OSHA has made a preliminary determination that the proposed modifications to the HCS would increase the quality and consistency of information provided to employers and employees. Specifically, OSHA believes that standardized label elements would be more effective in communicating hazard information; standardized headings and a consistent order of information would improve the utility of SDSs; and training would support and enhance the effectiveness of the new label and SDS requirements. Is this assessment correct? OSHA requests information that reflects on the effectiveness of the proposed modifications to the HCS in protecting employees from chemical hazards in the workplace.

Economic Impacts and Economic Feasibility

2. The preliminary economic analysis in Section VII raises a variety of specific questions and issues with respect to the preliminary economic analysis. OSHA would appreciate it if you could place answers to these issues as heading 2 in your comments and further organize comments on the preliminary economic analysis (PEA) as follows:

a. *Industrial profiles.* This covers issues concerning how many employees, establishments and products would be affected by the proposed standard. OSHA welcomes comments on all aspects of the industrial profile and is particularly interested in comments on the number of affected employees, and the number of SDSs that would need revision, by industry.

b. *Issues with respect to estimated benefits of the proposed standard.* OSHA considers three kinds of benefits in this preliminary analysis: Benefits associated with preventing injuries, illnesses, and fatalities through clearer and more accessible information; benefits associated with reducing the time that safety and health managers and logistics and emergency response personnel spend on hazardous chemicals through clearer and easier-to-find information; and benefits associated with reducing the time needed to develop and review SDSs because of international harmonization. OSHA is particularly interested in comments on the scope of these benefits; the extent to which they are already being achieved by existing practices; and the extent to which they depend on other countries following the harmonization effort.

c. *Issues with respect to the costs and range of costs of the proposed standard.* OSHA preliminarily estimated the principal costs of the standard to chemical producers for reclassification of chemicals; remaking SDS's; and redoing labels; and to chemical users for familiarization and program changes for managers and for training exposed employees. OSHA welcomes comments on all aspects of the costs, and is particularly interested in comments on the extent to which chemical producers may have already met some of the requirements of the standard and the time and professional skills needed for the activities the standard would require.

d. *Issues with respect to economic impacts and feasibility of the proposed standard, including the sensitivity of OSHA's economic feasibility determination with respect to various assumptions.* OSHA welcomes comments on all aspects of the economic impact and economic feasibility analyses.

e. *All other issues with respect to the PEA.*

Effects on Small Entities

3. OSHA has certified that the proposed standard will not have a

significant impact on a substantial number of small entities. Nevertheless, because of the number of small entities affected, OSHA has prepared a voluntary initial regulatory flexibility analysis, the results of which are described in Section VII of the proposed rule. Do you consider the estimated costs and impacts on small entities presented there to be reasonable? Why or why not?

4. Are there alternatives to the rule as a whole or specific requirements of the rule that reduce impacts on small entities while still protecting the health of employees and meeting the broad goal of a globally harmonized system?

Environmental Impacts

5. OSHA has preliminarily determined that the proposed standard will not have any adverse effects on the environment, and may have positive effects on the environment. OSHA welcomes comments on this determination.

Hazard Classification

6. OSHA is proposing to adopt all of the physical and health hazard classes in the GHS. Among the physical and health hazard classes, OSHA is proposing to include all hazard categories in the GHS except Acute Toxicity Category 5 for oral, dermal, or inhalation exposures; Skin Corrosion/Irritation Category 3; and Aspiration Hazard Category 2. If you believe that the exclusion of these hazard categories is not consistent with the scope and/or level of protection provided by the current HCS, please describe any recommended changes to this proposal and the reasons you think these changes are necessary.

7. OSHA has proposed a definition for unclassified hazards be added to the HCS to ensure that all hazards currently covered by the HCS—or new hazards that are identified in the future—are included in the scope of the revised standard until such time as specific criteria for the effect are added to the GHS and subsequently adopted by OSHA. Will this approach provide sufficient interim coverage for hazards such as combustible dust? Are there other hazards for which criteria should be developed and added to the GHS? Please provide information regarding these hazards, and the information available to characterize them.

8. OSHA believes it may be more appropriate to add specific coverage for simple asphyxiants to the standard in the final rule to ensure everyone properly addresses their coverage rather than addressing them under the unclassified hazard definition. This effect is simple and straightforward, and could be addressed in a definition that does not involve extensive criteria. OSHA is requesting comment on this approach. A possible definition would be as follows:

> ''Simple asphyxiants'' are substances that displace oxygen in the ambient atmosphere, and can thus cause oxygen deprivation in exposed workers that leads to unconsciousness and death. They are of particular concern in confined spaces. Examples of asphyxiants include: nitrogen, helium, argon, propane, neon, carbon dioxide, and methane.

OSHA would also like to solicit comments on specific label elements for simple asphyxiants. No symbol would be required, but the signal word ''warning'' would be used, with the hazard statement ''may be harmful if inhaled''. In addition, a precautionary statement such as the following would be required: May displace oxygen in breathing air and lead to suffocation and death, particularly in confined spaces.

All other requirements of the standard that apply to hazardous chemicals would also apply to chemicals that meet this definition. These substances would generally be covered already under the proposed rule as compressed gases, and may also pose other effects such as flammability that would have to be addressed as well. They are also already covered under the existing HCS. Is the definition suggested by OSHA sufficient to cover this effect? Do you have suggestions for modifying this definition? Are the label elements suggested appropriate?

9. In order to help to ensure that health hazard determinations are properly conducted under a performance-oriented approach, the HCS includes a ''floor'' of chemicals that are to be considered hazardous based on several cited reference lists. In addition, the existence of one toxicological study indicating a possible adverse effect is considered sufficient for a finding of hazard for any health effect. Under the GHS, there is no floor of chemicals cited, nor is there an across-the-board provision such as the one-study criterion. Instead, specific, detailed criteria are provided for each type of health hazard to guide the evaluation of relevant data and subsequent classification of the chemical. The proposed modifications to the HCS would align the standard to the GHS approach, and thus do not include the floor of chemicals nor the universal one-study rule. Would the proposed detailed criteria provide sufficient guidance for a thorough hazard evaluation?

10. OSHA has edited the chapters in the GHS for classification of physical and health hazards to remove material not directly related to classification and to otherwise streamline the text. OSHA anticipates providing the decision logics separately to serve as guidance, but has not included them in the regulatory text. Are there any additions, subtractions, or clarifications of the classification criteria from the GHS that OSHA needs to consider?

11. Certain physical hazard classification criteria (*i.e.,* for self-reactive chemicals, organic peroxides, self-heating chemicals, explosives) either directly reference packaging or quantity, or rely on test methods that reference packaging or quantity. The criteria were developed for transport concerns. Clearly, quantity and packaging can greatly affect safe transport of chemicals that pose hazards such as those listed above. However, OSHA seeks comments on whether the criteria as stated in the GHS are appropriate for the workplace. Does use of these criteria present any obstacles to classification or create any difficulties for suppliers or users of chemicals? Describe any difficulties these criteria may present and any suggestions for addressing these issues, particularly recommendations that would be consistent with the GHS and maintain the GHS level of safety for these chemicals.

12. The GHS gives countries guidance on a cut-off or concentration limit for chemical mixtures containing target organ toxicity hazards. In Appendix A, Section A.8.3, OSHA is proposing to make the suggested 20% concentration limit mandatory so that label preparers are clear on what needs to be done. Please comment on whether this mandatory concentration limit is appropriate. If you have an alternative, please provide it along with the rationale.

Labels

13. The proposal would require pictograms to have a red frame. As discussed in Section V, OSHA believes that use of the color red will make warnings more noticeable and will aid in communicating the presence of a hazard. However, the GHS gives competent authorities such as OSHA the discretion to allow use of a black frame when the pictogram appears on a label for a package which will not be exported. For packages that will not be exported, should the modified standard allow black frames on pictograms, or should the pictogram frame be required to be presented in red?

14. In addition to the pictograms, signal word and hazard statements, GHS labels must include precautionary statements. OSHA is proposing to require the text in the precautionary statements in the GHS to be on HCS labels. As discussed in Section XV Summary and Explanation of the Proposed Standard, these statements are codified under the GHS, meaning that numbers have been assigned to them. In addition, the appropriate statements to use for each hazard class and category have been indicated in the GHS annexes. This means that label preparers will know exactly what precautionary statements to apply once they complete their hazard classification, and chemical users will see consistent language on labels to indicate the necessary precautionary measures. However, the statements are not yet considered to be part of the harmonized text like hazard statements are; rather they are included in the GHS as an suggested language. OSHA expects that other countries may adopt the codified precautionary statements when they put GHS in place. For example the EU has required that labels use the GHS codified precautionary statement text in adapting the GHS. Since OSHA did not previously require the use of precautionary statements, and had no such recommended statements to provide, the Agency is proposing to use those currently in the GHS as the mandatory requirements with the option of consolidating statements where appropriate (*See* Appendix C). OSHA anticipates this approach will provide the maximum benefit. OSHA is also seeking comment on whether any of these statements should be modified or if other precautionary statements should be included.

In addition, as discussed in Section IV, OSHA has presented other alternatives with regards to precautionary statements, and OSHA is soliciting comment on these options as well. Specifically, OSHA is seeking feedback on whether the Agency should include the GHS precautionary statements as nonbinding examples, through a non mandatory appendix or guidance, rather than as required statements, or whether OSHA should allow label preparers to develop their own precautionary statements rather than specifying the text to be used.

15. OSHA has not proposed to require the exploding bomb pictogram or specific precautionary statements for Division 1.4S ammunition and ammunition components because the specified GHS label elements may not accurately reflect the hazards of these materials. Is this sufficiently protective? Are any adjustments to the label elements for Division 1.4S ammunition and ammunition components necessary? Describe any requested changes and explain why such revisions are necessary.

16. In the current HCS, OSHA has a provision that requires labels to be updated within three months of obtaining new and significant information about the hazards. The Agency has not been enforcing this provision for many years, and there has been an administrative stay on enforcement. OSHA is including the provision in this proposal, and inviting comment on it with the intention of including it in the final rule and lifting the stay. Is three months the appropriate time interval for updating? Are there any practical accommodations that need to accompany this limit (for example, related to stockpiles of chemicals)? Provide any alternatives you consider appropriate, as well as documentation to support them.

Safety Data Sheets (SDSs)

17. As discussed in Section XV, the Agency is proposing to require that OSHA permissible exposure limits (PELs) be included on the SDS, as well as any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the safety data sheet. OSHA welcomes comments on this approach, along with an explanation of the basis for your position.

18. OSHA is proposing that Section 15 of the SDS be non-mandatory. As indicated in Appendix D, Section 15 addresses regulatory information concerning the chemical. OSHA is considering requiring the substance specific standards be referenced in this section, which would make Section 15 mandatory. Would employers and employees benefit from having this information in this section of the SDS?

Other Standards Affected

19. OSHA is proposing to align the definitions of the physical hazards to the requirements of the GHS categories in safety standards for general industry, construction, and maritime standards, which either directly reference the HCS or provide information pertinent to the Safety Data Sheets (SDSs). In most cases OSHA has modified the standards to maintain scope and protection. However, the changes in definitions for flammable liquids Category 1 and 2 and flammable aerosols appear to be more than simply rounding to the nearest significant number.

○ *Flammable liquids Category 1 and 2:* The boiling point cut-off for Category 1 is reduced from 100 deg F (37.8 deg C) or less to 95 deg F (35 deg C) or less, which could shift some liquids from Category 1 to Category 2.

○ *Flammable aerosols:* OSHA is proposing to adopt the GHS method to determine flammability rather than the method defined by the Consumer Product Safety Commission (CPSC).

OSHA's decision to change these definitions to be consistent with the GHS is based not only upon harmonizing its standards with those of other countries that have adopted or may adopt the GHS, but OSHA is also concerned with making its standards internally consistent. OSHA believes the methods used to classify these physical hazards are similar enough so that substances that are currently regulated by OSHA would continue to be regulated and that few, if any, changes would result in a shift in regulatory coverage. Would the proposed changes have any impact on your operations? If so, describe the anticipated effects.

20. OSHA is proposing to eliminate the term ''combustible liquid'' in 29 CFR 1910.106. 1910.107, 1910.123, 1910.124, 1910.125, and 1926.155 for liquids with a flashpoint above 100 °F. To reflect consistency with the revised HCS where appropriate, OSHA is proposing to add the specific flashpoint criteria. This will maintain equivalent protection. Are there other standards that OSHA should update with the new terminology?

21. OSHA is proposing to modify the language required on signs in substance-specific health standards. The Agency developed the proposed language to reflect the terminology of the revised HCS while, at the same time, providing adequate warning through language that is consistent with the current sign requirements for these chemicals. An added benefit is the hazard warnings on signs specified for these standards will now be consistent throughout OSHA standards. For example, all carcinogens will now bear the hazard statement ''MAY CAUSE CANCER''. OSHA believes that providing language that is consistent on both signs and labels will improve comprehension for employees. Does the proposed language on signs accurately convey the hazards?

22. OSHA is proposing to revise the substance-specific health standards' provisions on labeling for producers and importers of chemicals and substances. Currently in the substance-specific standards OSHA requires specific language on labels for certain chemicals. OSHA is proposing to change these labeling requirements by referring those responsible for labeling to the modified HCS and including in each substance-

specific standard a list of health effects that must be considered for hazard classification. The modified HCS will dictate the specific language (*i.e.,* signal word, hazard statement(s), and precautionary statement(s)) that is required on labels through the classification process. However, OSHA is proposing to maintain specific language for labels on contaminated clothing and waste/debris containers to ensure adequate hazard communication for the downstream recipients. How would the removal of required language for labels from substance-specific standards affect your work place? Are there hazard warnings that will be lost that do not have an equivalent hazard or precautionary statement? Are there alternatives to OSHA's approach for the substance-specific standards that will assure information is disseminated in a manner that is consistent with the modified HCS labeling requirements?

23. In determining the health hazards that need to be considered by manufacturers, importers and distributors when classifying chemicals regulated by the substance-specific standards, OSHA is proposing to primarily rely on the determinations made by the Agency in each rulemaking, the *NIOSH Pocket Guide to Chemical Hazards* (2005) and the International Chemical Safety Cards, and use as a secondary source the health effects identified by the European Commission (2007). OSHA is proposing to include a health hazard only if it is identified as such by two or more of these organizations. Are there other sources of information that OSHA should consult?

24. As detailed in the Summary and Explanation section of this document, OSHA is not proposing in this rulemaking to update the electrical standards (general industry 1910 subpart S and construction 1926 subpart K) or Explosives and blasting agents (general industry 1910.109 and construction 1926.914). These subparts are ''self-contained'' in that they do not rely on other OSHA standards for regulatory scope or definitions, but reference external organizations (such as the National Fire Protection Association [NFPA]). OSHA believes that these standards could be updated when the referenced external organizations adopt applicable GHS elements. If OSHA were to change these standards to comply with the GHS, how would this impact your operations?

Effective Dates

25. OSHA has proposed to require that employers train employees regarding the new labels and safety data sheets within two years after publication of the final rule to ensure they are familiar with the new approach when they begin to see new labels and SDSs in their workplaces. Is the proposed time appropriate?

26. OSHA has proposed that chemical manufacturers, importers, distributors, and employers be required to comply with all provisions of the modified final rule within three years after its publication. Does this allow adequate time to review hazard classifications and amend them as necessary, and to revise labels and safety data sheets to reflect the new requirements? Would a shorter time frame be sufficient?

27. Are there any other factors that should be considered in establishing the phase-in period?

Compliance Assistance and Outreach

28. OSHA received many comments in response to the questions in the ANPR regarding compliance assistance and outreach and is seeking additional comment in this proposal. However, comments already submitted need not be resubmitted. Please refer to the discussion in Section XV. Specifically, OSHA is interested in your responses to the following: What types of materials or products would best assist employers in understanding and complying with the modified HCS? OSHA seeks input to identify the tools that would be most useful to employers and employees, the subjects of greatest interest (*e.g.,* classification criteria, labels, safety data sheets), and the best means of distributing these materials.

29. OSHA received a number of comments that suggested that a data base of chemical classifications should be developed and maintained to assist chemical manufacturers and importers in performing hazard classifications. This approach has been adopted in some other countries. Would such a data base be helpful? Who would be responsible for doing the classifications and maintaining them? How would the data base be kept aligned with other countries' classifications?

Alternative Approaches

30. OSHA has described alternatives to the scope and application of the proposed rule in the preamble, Section IV. These include consideration of allowing voluntary implementation of the GHS; exemptions based on size of the business; adopting some components of the GHS but not others; and not adopting all of the required label elements. The Agency requests comments on these alternatives, with data to support the views expressed. Suggestions and support for other alternatives are requested as well.

III. Events Leading to the Proposed Modifications to the Hazard Communication Standard

OSHA's Hazard Communication Standard (HCS) (29 CFR 1910.1200; 1915.1200; 1917.28; 1918.90; and 1926.59) was first issued in 1983 and covered the manufacturing sector of industry (48 FR 53280, November 25, 1983). In 1987, the Agency expanded the scope of coverage to all industries where employees are potentially exposed to hazardous chemicals (52 FR 31852, August 24, 1987). Although full implementation in the non-manufacturing sector was delayed by various court and administrative actions, the rule has been fully enforced in all industries covered by OSHA since March 17, 1989 (54 FR 6886, February 15, 1989). In 1994, OSHA made a number of minor changes and technical amendments to the HCS to help ensure full compliance and achieve better protection of employees (59 FR 6126, February 9, 1994). The development of the HCS is discussed in detail in the preambles to the original and revised final rules (see 48 FR 53280–53281; 52 FR 31852–31854; and 59 FR 6127–6131). This discussion will focus on the sequence of events leading to the development of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) and the modifications to the HCS included in this proposed rule.

The HCS requires chemical manufacturers and importers to evaluate the chemicals they produce or import to determine if they are hazardous. The rule provides definitions of health and physical hazards to use as the criteria for determining hazards in the evaluation process. Information about hazards and protective measures is then required to be conveyed to downstream employers and employees through labels on containers and safety data sheets. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including container labels, safety data sheets, and employee training. (**Note:** The HCS uses the term ''material safety data sheet'' or ''MSDS'', while the GHS uses ''safety data sheet'' or ''SDS''. For convenience and for consistency with the GHS, safety data sheet or SDS is being used throughout this document and that term would replace MSDS in the modified HCS.)

To protect employees and members of the public who are potentially exposed to chemicals during their production,

transportation, use, and disposal, a number of countries have developed laws that require information about those chemicals to be prepared and transmitted to affected parties. These laws vary with regard to the scope of chemicals covered, definitions of hazards, the specificity of requirements (*e.g.,* specification of a format for safety data sheets), and the use of symbols and pictograms. The inconsistencies between the various laws are substantial enough that different labels and safety data sheets must often be developed for the same product when it is marketed in different nations.

Within the U.S., several regulatory authorities exercise jurisdiction over chemical hazard communication. In addition to OSHA's HCS, the Department of Transportation (DOT) regulates chemicals in transport, the Consumer Product Safety Commission (CPSC) regulates consumer products, and the Environmental Protection Agency (EPA) regulates pesticides, as well as having other authority over labeling under the Toxic Substances Control Act. Each of these regulatory authorities operates under different statutory mandates, and has adopted distinct hazard communication requirements.

Tracking the hazard communication requirements of different regulatory authorities is a burden for manufacturers, importers, distributors, and transporters engaged in commerce in the domestic arena. This burden is magnified by the need to develop multiple sets of labels and safety data sheets for each product in international trade. Small businesses may have particular difficulty in coping with the complexities and costs involved. The problems associated with differing national and international requirements were recognized and discussed when the HCS was first issued in 1983. The preamble to the final rule included a commitment by OSHA to review the standard regularly to address international harmonization of hazard communication requirements. OSHA was asked to include this commitment in recognition of an interagency trade policy that supported the U.S. pursuing international harmonization of requirements for chemical classification and labeling. The potential benefits of harmonization were noted in the preamble:

> * * * [O]SHA acknowledges the long-term benefit of maximum recognition of hazard warnings, especially in the case of containers leaving the workplace which go into interstate and international commerce. The development of internationally agreed standards would make possible the broadest recognition of the identified hazards while avoiding the creation of technical barriers to trade and reducing the costs of dissemination of hazard information by elimination of duplicative requirements which could otherwise apply to a chemical in commerce. As noted previously, these regulations will be reviewed on a regular basis with regard to similar requirements which may be evolving in the United States and in foreign countries. (48 FR 53287)

OSHA has actively participated in a number of such efforts in the years since that commitment was made, including trade-related discussions on the need for harmonization with major U.S. trading partners. The Agency also issued a Request for Information (RFI) in the **Federal Register** in January 1990 to obtain input regarding international harmonization efforts, and on work being done at that time by the International Labor Organization (ILO) to develop a convention and recommendations on safety in the use of chemicals at work (55 FR 2166, January 22, 1990). On a closely related matter, OSHA published an RFI in May 1990 requesting comments and information on improving the effectiveness of information transmitted under the HCS (55 FR 20580, May 17, 1990). Possible development of a standardized format or order of information was raised as an issue in the RFI. Nearly 600 comments were received in response to this request. The majority of responses expressed support for a standard SDS format, and the majority of responses that expressed an opinion on the topic favored a standardized format for labels as well.

In June 1992, the United Nations Conference on Environment and Development issued a mandate (Chapter 19 of Agenda 21), supported by the U.S., calling for development of a globally harmonized chemical classification and labeling system:

> A globally harmonized hazard classification and compatible labelling system, including material safety data sheets and easily understandable symbols, should be available, if feasible, by the year 2000.

This international mandate initiated a substantial effort to develop the GHS, involving numerous international organizations, many countries, and extensive stakeholder representation.

A coordinating group comprised of countries, stakeholder representatives, and international organizations was established to manage the work. This group, the Inter-Organization Programme for the Sound Management of Chemicals Coordinating Group for the Harmonization of Chemical Classification Systems, established overall policy for the work and assigned tasks to other organizations to complete. The Coordinating Group then took the work of these organizations and integrated it to form the GHS. OSHA served as chair of the Coordinating Group.

The work was divided into three main parts: Classification criteria for physical hazards; classification criteria for health and environmental hazards (including criteria for mixtures); and hazard communication elements, including requirements for labels and safety data sheets. The criteria for physical hazards were developed by a United Nations Subcommittee of Experts on the Transport of Dangerous Goods/ International Labour Organization working group and were based on the already harmonized criteria for the transport sector. The criteria for classification of health and environmental hazards were developed under the auspices of the Organization for Economic Cooperation and Development. The ILO developed the hazard communication elements. OSHA participated in all of this work, and served as U.S. lead on classification of mixtures and hazard communication.

Four major existing systems served as the primary basis for development of the GHS. These systems were the requirements in the U.S. for the workplace, consumers and pesticides; the requirements of Canada for the workplace, consumers and pesticides; European Union directives for classification and labeling of substances and preparations; and the United Nations Recommendations on the Transport of Dangerous Goods. The requirements of other systems were also examined as appropriate, and taken into account as the GHS was developed. The primary approach to reconciling these systems involved identifying the relevant provisions in each system; developing background documents that compared, contrasted, and explained the rationale for the provisions; and undertaking negotiations to find an agreed approach that addressed the needs of the countries and stakeholders involved. Principles to guide the work were established, including an agreement that protections of the existing systems would not be reduced as a result of harmonization. Thus countries could be assured that the existing protections of their systems would be maintained or enhanced in the GHS.

An interagency committee under the auspices of the Department of State coordinated U.S. involvement in the development of the GHS. In addition to OSHA, DOT, CPSC, and EPA, there were a number of other agencies

involved that had interests related to trade or other aspects of the GHS process. Different agencies took the lead in various parts of the discussions. Positions for the U.S. in these negotiations were coordinated through the interagency committee. Interested stakeholders were kept informed through e-mail dissemination of information, as well as periodic public meetings. In addition, the Department of State published a notice in the **Federal Register** that described the harmonization activities, the agencies involved, the principles of harmonization, and other information, as well as invited public comment on these issues (62 FR 15951, April 3, 1997). Stakeholders also actively participated in the discussions at the international level and were able to present their views directly in the negotiating process.

The GHS was formally adopted by the new United Nations Committee of Experts on the Transport of Dangerous Goods and the Globally Harmonized System of Classification and Labelling of Chemicals in December 2002. In 2003, the adoption was endorsed by the Economic and Social Council of the United Nations. The GHS will be updated as necessary to reflect new technology and scientific developments, or provide additional explanatory text. This proposed rule is based on Revision 3 of the GHS, published in 2009.

Countries have been encouraged to implement the GHS as soon as possible, and established a goal to have fully operational systems by 2008. This goal was adopted by countries in the Intergovernmental Forum on Chemical Safety, and was endorsed by the World Summit on Sustainable Development. The U.S. participated in these groups, and agreed to work toward achieving these goals. While much progress was made by the U.S. and other countries by the end of 2008, most are still in the process of implementing the GHS.

OSHA published an Advance Notice of Proposed Rulemaking (ANPR) on the GHS in September of 2006 (71 FR 53617, September 12, 2006). The ANPR provided information about the GHS and its potential impact on the HCS, and sought input from the public on issues related to GHS implementation. Over 100 responses were received, and the comments and information provided were taken into account in the development of the modifications to the HCS included in this proposed rule. At the same time the ANPR was published, OSHA made a document summarizing the GHS available on its Web site (*http://www.osha.gov).*

OSHA remains engaged in a number of activities related to the GHS. The U.S. is a member of both the United Nations Committee of Experts on the Transport of Dangerous Goods and the Globally Harmonized System of Classification and Labeling of Chemicals, as well as the Subcommittee of Experts on the Globally Harmonized System of Classification and Labeling of Chemicals. These permanent UN bodies have international responsibility for maintaining, updating as necessary, and overseeing the implementation of the GHS. OSHA and other affected Federal agencies actively participate in these UN groups. In addition, OSHA and EPA also participate in the GHS Programme Advisory Group under the United Nations Institute for Training and Research (UNITAR). UNITAR is responsible for helping countries implement the GHS, and has ongoing programs to prepare guidance documents, conduct regional workshops, and implement pilot projects in a number of nations. OSHA also continues to be involved in interagency discussions related to coordination of domestic implementation of the GHS, and in discussions related to international work to implement and maintain the GHS.

IV. Overview and Purpose of the Proposed Modifications to the Hazard Communication Standard

The intent of the HCS is to ensure that the hazards of all chemicals are evaluated, and that information concerning chemical hazards and associated protective measures is transmitted to employers and employees. The standard achieves this goal by requiring chemical manufacturers and importers to review available scientific evidence concerning the physical and health hazards of the chemicals they produce or import to determine if they are hazardous. For every chemical found to be hazardous, the chemical manufacturer or importer must develop a container label and an SDS and provide both documents to downstream users of the chemical. All employers with employees exposed to hazardous chemicals must develop a hazard communication program, and ensure that exposed employees are provided with labels, access to SDSs, and training on the hazardous chemicals in their workplace.

The three information components in this system—labels, SDSs, and employee training—are all essential to the effective functioning of the program. Labels provide a brief, but immediate and conspicuous summary of hazard information at the site where the chemical is used. SDSs provide detailed technical information and serve as a reference source for exposed employees, industrial hygienists, safety professionals, emergency responders, health care professionals, and other interested parties. Training is designed to ensure that employees understand the chemical hazards in their workplace and are aware of protective measures to follow. Labels, SDSs, and training are complementary parts of a comprehensive hazard communication program—each element reinforces the knowledge necessary for effective protection of employees.

Information required by the HCS reduces the incidence of chemical-related illnesses and injuries by enabling employers and employees to implement protective measures in the workplace. Employers can select less hazardous chemical alternatives and ensure that appropriate engineering controls, work practices, and personal protective equipment are in place. Improved understanding of chemical hazards by supervisory personnel results in safer handling of hazardous substances, as well as proper storage and housekeeping measures.

Employees provided with information and training on chemical hazards are able to fully participate in the protective measures instituted in their workplaces. Knowledgeable employees can take the steps required to work safely with chemicals, and are able to determine what actions are necessary if an emergency occurs. Information on chronic effects of exposure to hazardous chemicals helps employees recognize signs and symptoms of chronic disease and seek early treatment. Information provided under the HCS also enables health and safety professionals to provide better services to exposed employees. Medical surveillance, exposure monitoring, and other services are enhanced by the ready availability of health and safety information.

OSHA believes that the comprehensive approach adopted in the HCS—requiring evaluation of chemicals and the transmittal of information through labels, SDSs, and training—is sound. The proposed modifications to the rule do not alter that approach. Rather, the proposed modifications to the rule are intended to improve the effectiveness of the HCS by enhancing the quality and consistency of the information provided to employers and employees. OSHA believes this can be accomplished by modifying the requirements of the standard to conform with the more specific and detailed provisions of the GHS for classification,

labeling, and SDSs. OSHA's rationale for this belief is summarized below. The evidence supporting this preliminary conclusion is presented in Section V of this preamble, and the proposed revisions to the HCS are discussed in detail in Section XV.

HCS Provisions for Classification, Labeling, and SDSs

The HCS covers a broad range of health and physical hazards. The standard is performance-oriented, providing definitions of hazards and parameters for evaluating the evidence to determine whether a chemical is considered hazardous. The evaluation is based upon evidence that is currently available, and no testing of chemicals is required.

The standard covers every type of health effect that may occur, including both acute and chronic effects. Definitions of a number of adverse health effects are provided in the standard. These definitions are indicative of the wide range of coverage, but are not exclusive. Any adverse health effect that is substantiated by a study conducted according to established scientific principles, and reporting a statistically significant outcome, is sufficient for determining that a chemical is hazardous under the rule.

Most chemicals in commerce are not present in the pure state (*i.e.,* as individual elements or compounds), but are provided as mixtures of chemicals. Evaluation of the health hazards of mixtures is based on data for the mixture as a whole when such data are available. When data on the mixture as a whole are not available, the mixture is considered to present the same health hazards as any ingredients present at a concentration of 1% or greater, or, in the case of carcinogens, concentrations of 0.1% or greater. The HCS also recognizes that risk may remain at concentrations below these cut-offs, and where there is evidence that is the case, the mixtures are considered hazardous under the standard.

The current definitions of physical hazards in the HCS were derived from other OSHA standards that address such chemicals (*e.g.,* flammable chemicals), or from the DOT criteria for physical hazards at the time OSHA promulgated the HCS. DOT subsequently changed their criteria to be consistent with the internationally harmonized transport requirements, and the HCS criteria for classification of physical hazards are generally not consistent with current DOT requirements.

The HCS establishes requirements for minimum information that must be included on labels and SDSs, but does not provide specific language to convey the information or a format in which to provide it. When the HCS was issued in 1983, the public record strongly supported this performance-oriented approach (*see* 48 FR 53300–53310). Many chemical manufacturers and importers were already providing information voluntarily, and in the absence of specific requirements had developed their own formats and approaches. The record indicated that a performance-oriented approach would reduce the need for chemical manufacturers and importers to revise these existing documents to comply with the HCS, thus reducing the cost impact of the standard. In recognition of the work that had been voluntarily completed, OSHA decided to allow labels and SDSs to be presented in any format desired, as long as the minimum information requirements of the standard were met.

GHS Provisions for Classification, Labeling, and SDSs

The GHS is an internationally harmonized system for classifying chemical hazards and developing labels and safety data sheets. However, the GHS is not a model standard that can be adopted verbatim. Rather, it is a set of criteria and provisions that regulatory authorities can incorporate into existing systems, or use to develop a new system.

The GHS is designed to allow regulatory authorities to choose provisions that are appropriate to their particular sphere of regulation. This is referred to as the ''building block approach.'' The GHS includes all of the regulatory components, or building blocks, that might be needed for classification and labeling requirements for chemicals in the workplace, transport, pesticides, and consumer products.

Regulatory authorities such as OSHA adopt the provisions of the GHS that are appropriate for their particular regulatory sector, but do not need to adopt all of the criteria and provisions of the GHS. For example, the GHS includes criteria for classifying chemicals for aquatic toxicity. Since OSHA does not have the regulatory authority to address environmental concerns, OSHA would not adopt the GHS criteria for aquatic toxicity. The building block approach may also be applied to the criteria for defining hazards. For example, the acute toxicity criteria in the GHS are much broader than those currently found in the HCS. This is to allow consumer product authorities the ability to address the protection of children and other vulnerable populations. OSHA would not need to adopt all of the acute toxicity categories to maintain protection of employees in the workplace.

The building block approach can also be applied when a regulatory authority decides which parts of the system to adopt. For example, the GHS includes classification criteria and provisions for labels and SDSs. While OSHA is proposing to adopt all of these elements because the current HCS cover labels and SDSs, consumer product and transportation authorities are not expected to require SDSs.

Under the GHS, each hazard or endpoint (*e.g.,* Explosives, Carcinogenicity) is considered to be a hazard class. The classes are generally sub-divided into categories of hazard. The definitions of hazards are more specific and detailed than those currently in the HCS. For example, under the HCS, a chemical is either an explosive or it is not. Under the GHS, there are seven categories of explosives, and assignment to these categories is based on the classification criteria provided.

The GHS generally applies a tiered approach to evaluation of mixtures. The first step is consideration of data on the mixture as a whole. The second step allows the use of ''bridging principles'' to estimate the hazards of the mixture based on information about its components. The third step of the tiered approach involves use of cut-off values based on the composition of the mixture, or for acute toxicity, a formula which is used for classification. The approach is generally consistent with the current requirements of the HCS, but provides more detail and specification and allows for extrapolation of data available on the components of a mixture to a greater extent—particularly for acute effects.

Hazard communication requirements under the GHS are directly linked to the hazard classification. For each class and category of hazard, a harmonized signal word (*e.g.,* Danger), pictogram (*e.g.,* skull and crossbones), and hazard statement (*e.g.,* Fatal if Swallowed) are specified. These specified elements are referred to as the core information for a chemical. Thus, once a chemical is classified, the GHS provides the specific core information to convey to users of that chemical. The core information allocated to each category generally reflects the degree of severity of the hazard. Precautionary statements are also required on GHS labels. The GHS provides example precautionary statements, but they are not yet

considered formally harmonized. In other words, it would be possible for regulatory authorities to use different language for the precautionary statements. However, it appears likely that the language in the examples will become the harmonized text of the GHS on precautionary statements in the near future. The most recent revision to the GHS has codified these statements (*i.e.,* assigned numbers to them) as well as aligned them with the hazard classes and categories. Codification allows reference to them in a shorthand form, and makes it easier for authorities using them in regulatory text to organize them. In addition, there are provisions to allow supplementary information so that chemical manufacturers can provide data in addition to the specified core information.

The GHS establishes a standardized 16-section format for SDSs to provide a consistent sequence for presentation of information to SDS users. Items of primary interest to exposed employees and emergency responders are presented at the beginning of the document, while more technical information is presented later. Headings for the sections (*e.g.,* First Aid Measures, Handling and Storage) are standardized to facilitate locating information of interest. The harmonized data sheets are consistent with the order of information included in the voluntary industry consensus standard for safety data sheets (ANSI Z400.1).

Advantages of the Proposed Modifications to the Standard

OSHA believes that the detailed and specific classification requirements of the GHS would result in better, more consistent information being provided to employers and employees. Classification under the revised criteria would not only indicate the type of hazard, but would generally give an indication of the degree of severity of the hazard as well. This information would be helpful to both employers and employees in understanding chemical hazards and identifying and implementing protective measures. The detailed criteria for classification are also expected to result in greater accuracy in hazard classification and more consistency among classifiers. By following the detailed criteria, classifiers are less likely to reach different interpretations of the same data.

OSHA also believes that standardized presentation of information on labels and safety data sheets would improve the comprehensibility of chemical hazard information. Employers and employees would be given the same core information on a chemical regardless of the supplier. Use of standardized pictograms would complement and reinforce the information provided through signal words and hazard statements. Pictograms are also anticipated to improve communication for those who are not functionally literate, or who are not literate in the language used on the label. The standardized format for SDSs is expected to make the information easier for users to find, with the information employees and emergency responders need most appearing in the beginning of the document for easy identification and reference.

Standardized requirements for labels and SDSs are also expected to increase the accuracy of chemical hazard information. With consistent presentation of information, the task of reviewing SDSs and labels to assure accuracy would be simplified. Individuals preparing and reviewing these documents should find it easier to identify any missing elements, and OSHA enforcement personnel should be able to more efficiently examine SDSs and labels when conducting inspections.

Another advantage that will result from adopting a system that has harmonized hazard statements in it relates to the use of ''control banding,'' a guidance approach to recommending control measures for chemical exposures. The approach uses information that is readily available to small and medium-sized employers with chemicals in their workplaces to provide them with workplace-specific control recommendations. Basically, the system uses such information to estimate the degree of severity of the hazard and the amount of chemical present, and relates that to the degree of control needed. The control banding approach relies on harmonized hazard statements to allow the system to estimate the degree of severity of the hazard. Initially based on the European hazard classification system, it has now been converted to the GHS phrases. The use of control banding to provide guidance for chemical safety and health approaches in U.S. workplaces cannot be accomplished until harmonized hazard statements are readily available. Adoption of the GHS and its phrases would open up the possibility that control banding guidance can be used in the U.S. to help small and medium-sized employers select and implement appropriate control measures. For more information on control banding, please *see http://www.cdc.gov/niosh/topics/ctrlbanding/.*

OSHA is proposing modifications to the HCS that are necessary for consistency with the GHS. The GHS does not include requirements for a written hazard communication program or for employee training. OSHA is not proposing any substantive changes to the requirements for a written hazard communication program. However, OSHA believes that additional training would be necessary to ensure that employees understand some elements of the new system. In particular, some training and familiarization would be needed for pictograms to be effective. The Agency is therefore proposing modified training requirements to address the new label elements and SDS format that would be required under the revised standard.

The GHS leaves certain matters to the competent authority (*i.e.,* the regulatory authority with jurisdiction over that sector) to determine. OSHA would maintain its current approaches in these situations. For example, the scope and application provisions in the HCS address the interface of the OSHA requirements with requirements of other agencies. These scope provisions would remain unchanged under the proposed rule.

The proposed modifications to the HCS primarily affect manufacturers and importers of hazardous chemicals. Chemical manufacturers and importers would be required to re-evaluate chemicals according to the new criteria in order to ensure they are classified appropriately. For health hazards, this will necessitate placing the chemical in the appropriate hazard category as well as the hazard class. For physical hazards, however, the new criteria are generally consistent with current DOT requirements for transport. Therefore, if the chemicals are transported (*i.e.,* they are not produced and used in the same workplace), this classification should already be done for physical hazards for purposes of complying with DOT's transport requirements. This should minimize the additional work required for classification of physical hazards. Preparation and distribution of modified labels and safety data sheets by chemical manufacturers and importers would also be required. Those chemical manufacturers and importers already following the ANSI Z400.1 standard for safety data sheets should already have the appropriate format, and would only be required to make some small modifications to the content of the sheets to be in compliance.

Compliance requirements for chemical users would be limited. Workplaces where chemicals are used would need to integrate the new

approach into their hazard communication program, assuring that employees understand the pictograms and other information provided on labels and SDSs. Employers who use chemicals, and exposed employees, would benefit from receiving labels and safety data sheets presented in a consistent format. The information should be easier to find and comprehend, allowing it to be used more effectively for the protection of employees.

Changing the HCS to make it conform to the GHS will also make it necessary to modify a number of other OSHA standards. Modifications are proposed to the standards for Flammable and Combustible Liquids in general industry (29 CFR 1910.106) and construction (29 CFR 1926.152) to align the requirements of the standards with the GHS hazard categories for flammable liquids. A modification to the Process Safety Management standard (29 CFR 1910.119) is proposed to ensure that the scope of the standard is not changed by the proposed modifications to the HCS. In addition, modifications to most of OSHA's substance-specific health standards are proposed to ensure that requirements for signs and labels are consistent with the modified HCS.

OSHA's preliminary determination to modify the HCS is based on its assessment of the potential to improve employee safety and health by adopting the GHS approach to hazard communication. However, GHS implementation is also expected to accomplish a number of other objectives, and produce additional benefits. By providing an internationally comprehensible system for hazard communication, the GHS is anticipated to enhance the protection of the environment and of human health in all sectors, not only the workplace. The GHS provides a framework for developing a hazard communication system for those countries without an existing system, thus protecting employees around the world and helping to ensure that the appropriate information is received with chemicals imported into American workplaces. Implementation of the GHS is also expected to reduce the need for testing and evaluation of chemicals, since classification would be based on existing data and would only need to be performed once for each substance. In addition, implementation of the GHS is expected to facilitate international trade in chemicals, as the need to identify and comply with diverse and complex hazard communication requirements in different countries would be reduced or eliminated.

Alternative Approaches

In this section OSHA presents several alternatives to the proposed GHS modification to the HCS to respond to concerns raised by commenters through the ANPR. OSHA provides the following discussion of these alternatives and their potential impacts and requests comments regarding their relative costs, benefits, feasibility, impact on small businesses, impact on worker safety and health, and any other issues on which commenters may wish to provide feedback.

This rulemaking seeks to improve employee protections by adopting an internationally harmonized approach to hazard communication issues. While the current HCS provides protections for exposed workers by disseminating information about chemicals in their workplaces, OSHA believes, as discussed in Section V, that the adoption of GHS strengthens and refines the system, and gives OSHA the opportunity to improve worker safety by improving hazard communications. The GHS has the same general concept of an integrated, comprehensive process of identifying and communicating hazards, but provides more extensive criteria to define the hazards in a consistent manner, as well as standardizes label elements and SDS formats to help to ensure that the information is conveyed consistently.

Additionally, the Agency believes that adoption of the GHS as proposed will simplify implementation insofar as OSHA's preferred alternative would clearly be considered ''harmonized'' with other regulatory authorities in the world, and thereby acquire the full benefits of harmonization.

This is in line with the GHS, which anticipates that countries will adopt the hazard classification criteria and required label elements, as well as SDS requirements in workplaces. As stated in the introduction to the GHS (3rd revision):

> 1.1.3.1.3 In the workplace, it is expected that all of the GHS elements will be adopted, including labels that have the harmonized core information under the GHS, and safety data sheets. It is also anticipated that this will be supplemented by employee training to help ensure effective communication.

As addressed in Section XV, many commenters supported the concept of OSHA moving forward to adopt the GHS (Document ID #s 0003, 0007, 0047, 0050, 0052, 0062, 0106, 0011, 0033, 0038, 0123, 0130, 0151, 0163, and 0171). While others objected to adoption, OSHA has identified and responded to their concerns in Section XV as well. In addition, there were several commenters who noted that small chemical manufacturers that are not in international trade of chemicals would have a large burden associated with adopting the GHS, and questionable benefits due to their lack of international trade. (Document ID # 0022). Others simply noted that they believed there would be high costs and limited benefits for such employers, or that it would be costly and difficult to adopt (*Document ID #s* 0015, 0026, 0178, and 0144). There was no discussion in any of these comments about potential alternatives.

It should be noted that it appears that all of these commenters assumed the primary benefits of adopting the GHS would be in facilitating international trade. As has been addressed in Section VII, OSHA has based the benefits of this action on improved communication to workers and has provided initial estimates of a range of benefits that would be achieved in this area; trade benefits which, while recognized, have not been quantified. Therefore, grandfathering or other exemptions related to this rule might result in workers in those facilities receiving lower benefits of increased comprehensibility relative to workers in other types and sizes of workplaces; OSHA considers this a serious concern that could potentially exclude a group of workers exposed to hazardous chemicals from the increased benefits associated with clearer and more specific classification criteria, as well as standardized label elements.

Alternatives:

In order to respond to the concerns raised in these comments, OSHA solicits comment on several options:

1. The first option is designed to facilitate voluntary adoption of GHS within the existing HCS framework. Specifically, this approach would involve recognition and adoption of the GHS, with minimal changes to the current HCS. Under this approach, entities could opt to adopt GHS or continue to follow their current practice under HCS.

Therefore, companies would decide whether they would continue complying with the existing standard, or comply with the GHS. This would reduce the costs for those companies that choose to remain in compliance with the existing HCS, and allow those companies that foresee the benefits of GHS compliance from a trade perspective to adopt its provisions. Another version of this option would be to exempt small chemical producers from complying.

2. A second option that OSHA is seeking to solicit comment on would

make modifications to the current HCS in order to improve hazard communication through adoption of components of the GHS. Under this option OSHA would add requirements for standardized hazard statements, signal words, and precautionary statements being added to the current HCS, but otherwise would follow the approach outlined in Alternative 1 above.

Since the standardized labels are relatively inexpensive to implement, while reviewing classifications is more costly, this has the potential to reduce the overall cost of implementation of the revised rule.

A variation on this alternative would entail incorporation of some, but not all, of the label elements. In particular, the Agency would not adopt the precautionary statements since these are not yet considered to be ''harmonized'' under the GHS—they are provided for guidance and reference, but competent authorities may choose to implement other statements. The precautionary statements could be adopted later when they are harmonized under the GHS. Or, alternatively, OSHA could either allow label preparers to use whatever precautionary statements they deem appropriate or develop its own set of statements to require.

From OSHA's perspective, a key issue regarding the alternative approaches presented is that the classification criteria in the GHS are different from the hazard definitions in the current HCS. In general, as discussed in Section XV, they cover the same scope of hazard so these differences do not result in significant differences in the chemicals covered. But the GHS criteria divide most of the hazard classes into hazard categories that convey the severity of the effect, while few of the hazard classes in the current HCS take this approach. The standardized label elements are associated with these specific hazard categories, *i.e.,* the harmonized pictograms, signal words, and hazard statements are assigned by hazard category and reflect the degree of hazard it presents to those exposed. Likewise, the precautionary statements assigned are also reflective of the degree of hazard, with responses related to these presumed hazard levels.

Additionally, with regard to the first alternative, there will be chemicals that will be classified in different hazards classes under the GHS classification scheme versus the HCS hazard determination step. In addition, these chemicals will also be assigned to hazard categories under GHS where there are none now. This is particularly true for the classification of mixtures for all hazards, except the chronic health hazards, since the hazard determination scheme in the current HCS is based solely on concentration limits and the GHS classification scheme is based on bridging principles. Under the alternatives presented workers might be given different hazard information when exposed to a chemical purchased from two different suppliers. OSHA notes that this would be similar to the situation under the current performance-oriented HCS, but this approach may forego an opportunity to make the system more consistent.

OSHA is interested in comments related to the alternatives addressing the extent to which differences in classification between the GHS and HCS might create confusion or otherwise result in problems. OSHA is further interested in comments addressing the classification of mixtures under the alternatives discussed, given the differences in classification under HCS and GHS applicable to mixtures.

Given the current variability in MSDS and labels under the performance based HCS, OSHA believes that this approach might not have a negative impact on safety and health relative to our current HCS. However, the Agency anticipates that components of the GHS would confer benefits external to producers (*e.g.,* the benefits associated with clearer and more specific classification criteria, as well as labels or other changes that could potentially make easier for users to locate and understand the information they are seeking), adoption of this alternative could result in foregone benefits. In addition, a small number of chemicals or mixtures might be labeled differently due to differing categorization results between the existing HCS and GHS.

OSHA is generally seeking comment on the possible cost impacts associated with the alternatives on the chain of chemical suppliers. OSHA notes that large and small producers are not mutually exclusive so that a large business or distributers engaged in international trade cannot simply and straightforwardly choose to implement the GHS regardless of their suppliers. Small businesses sell to large businesses. If small businesses do not adopt the GHS, then the large businesses or the distributor would either have to generate GHS classifications for chemicals they buy from them or request that small businesses supply data and labels using GHS classifications. Likewise, chemical producers often provide their products to distributors who then sell them to customers unknown to the original producer. Thus knowing whether or not a product will wind up in international trade may be questionable in some situations. A producer may provide a substance to another company, who then formulates it into a product that is sold internationally—thus the original producer is involved in international trade without necessarily realizing it. In theses cases, costs would be incurred for the conversion to GHS. This issue was raised in comments regarding the effective dates for the rule, when many suggested it was not appropriate to differentiate dates based on the size of the business. For example, ORC Worldwide, Inc. stated (Document ID # 0123):

> OSHA should consider a company's place in the manufacturing supply chain, not size, in determining how the phase-in is implemented. It would be sensible to start with producers of raw materials and basic chemicals. The technical information, classification and categorization they perform will be useful downstream for the intermediate chemical producers and specialty chemical manufacturers. Lastly, the end user will benefit from the influx of information developed by the upstream professionals.

OSHA solicits comment on whether a voluntary system, or a system based on business size, could be successfully implemented given the structure of the supply system.

OSHA seeks comment on how companies that use chemicals, but don't produce them, would be affected under an alternative approach. Rather than potentially simplifying compliance and improving comprehensibility, the user of chemicals would continue to see variation in labels on purchased chemicals. This would be further complicated by the fact that the underlying criteria for these labels may be different as well, and thus the warnings would be too. If there is no requirement for such employers to be familiar with the new system, and train their employees, then there will be new pictograms and signal words with no structure for ensuring they are understood and the appropriate precautions are implemented.

Regarding Alternative 2, under OSHA's proposed approach the label provisions are relatively cost-efficient to adopt given that the GHS assigns the various required elements by hazard class and category and once the classification or re-classification has been accomplished, the GHS provides the specific information for the label.

OSHA solicits comment on whether requiring this standardized approach to labeling under the HCS, without the infrastructure of the GHS will be burdensome for the chemical

manufacturer to accomplish OSHA further solicits comment on whether confusion may result from labels that may look the same but which actually reflect different classification criteria. Under this approach, chemical producers will have to assess their current determinations and attempt to relate them to the established hazard classes and categories. Alternatively, OSHA could create a regulatory system assigning HCS categories to each GHS label elements; comments are welcomed on the impact on benefits and costs, and the feasibility of such an approach. OSHA believes it is unlikely that this component of Alternative 2 would provide significant savings over reviewing classifications for purposes of putting the chemicals into GHS classes and categories.

OSHA is concerned that chemical producers following this approach might not be able to use their labels in other countries where the GHS has been adopted. OSHA is further concerned that adopting only some elements of the GHS label may be confusing and may fail to provide useful information regarding the possible hazardous effects of exposure. Delaying adoption of the precautionary statements may also reduce the effectiveness of the labels significantly, and reduce the appropriate information on the SDSs as well. A variation on this alternative—to simply require precautionary statements, but not to specify what they are, may generate significant variation due to the performance-oriented approach that allows the label preparer to determine what they are or if they are included. One communication advantage of providing the information in the same language from label-to-label is that workers and other users can be assured that the same action is required. If you take a simple preventive measure such as ''wash your hands,'' but convey it in several different ways, the reader of the label will think you mean something different. This is one of the advantages of providing the text for these statements in the revised HCS. In addition, since these precautionary statements will be translated, this should make it easier for those participating in international trade to produce and use labels.

Thus, OSHA solicits comment on a range of alternative approaches to regulatory adoption of GHS and welcomes comments on these options. The costs and benefits are further addressed in Section VII.

V. Need and Support for the Proposed Modifications to the Hazard Communication Standard

Chemical exposure can cause or contribute to many serious adverse health effects such as cancer, sterility, heart disease, lung damage, and burns. Some chemicals are also physical hazards and have the potential to cause fires, explosions, and other dangerous incidents. It is critically important that employees and employers are apprised of the hazards of chemicals that are used in the workplace, as well as associated protective measures. This knowledge is needed to understand the precautions necessary for safe handling and use, to recognize signs and symptoms of adverse health effects related to exposure when they do occur, and to identify appropriate measures to be taken in an emergency.

OSHA established the need for disclosure of chemical hazard information when the HCS was issued in 1983 (48 FR 53282–53284). This need continues to exist. The Agency estimates that 880,000 hazardous chemicals are currently used in the U.S., and over 40 million employees are now potentially exposed to hazardous chemicals in over 5 million workplaces.

Chemical exposures result in a substantial number of serious injuries and illnesses among exposed employees. The Bureau of Labor Statistics estimates that employees suffered 55,400 illnesses that could be attributed to chemical exposures in 2007, the latest year for which data are available (BLS, 2008). In that same year, 17,340 chemical-source injuries and illnesses involved days away from work (BLS, 2009).

The BLS data, however, do not indicate the full extent of the problem, particularly with regard to illnesses. As noted in the preamble to the HCS in 1983, BLS figures probably only reflect a small percentage of the incidents occurring in exposed employees (48 FR 53284). Many occupational illnesses are not reported because they are not recognized as being related to workplace exposures, are subject to long latency periods between exposure and the manifestation of disease, and other factors (*e.g.,* Herbert and Landrigan, 2000; Leigh *et al.,* 1997; Landrigan and Markowitz, 1989).

The HCS currently serves to ensure that information concerning chemical hazards and associated protective measures is provided to employers and employees. However, OSHA's experience, along with information acquired since the HCS was issued, indicates that modifications to the standard may be appropriate. The Agency believes that the proposed changes, based on the GHS, will substantially improve the quality and consistency of the information provided to employers and employees. OSHA further believes the proposed revisions to the HCS will enhance workplace protections, because better information will enable employers and employees to take measures that would result in a reduction in the number and severity of chemical-related injuries and illnesses.

A key foundation underlying this belief relates to the comprehensibility of information conveyed under the GHS. All hazard communication systems deal with complicated scientific information being transmitted to largely non-technical audiences. During the development of the GHS, in order to construct the most effective hazard communication system, information about and experiences with existing systems were sought to help ensure that the best approaches would be used. Ensuring the comprehensibility of the GHS was a key issue during its development. As noted in a **Federal Register** notice published by the U.S. Department of State (62 FR 15956, April 3, 1997): ''A major concern is to ensure that the requirements of the globally harmonized system address issues related to the comprehensibility of the information conveyed.'' This concern is also reflected in the principles of harmonization that were used to guide the negotiations and discussions during the development of the GHS. As described in Section 1.1.1.6(g) of the GHS, the principles included the following: ''[T]he comprehension of chemical hazard information, by the target audience, *e.g.,* workers, consumers and the general public should be addressed.''

To help in the development of the GHS, OSHA had a review of the literature conducted to identify studies on effective hazard communication, and made the review and the analysis of the studies available to other participants in the GHS process. Prepared by researchers at the University of Maryland, the document entitled ''Hazard Communication: A Review of the Science Underpinning the Art of Communication for Health and Safety'' (Sattler *et al.,* 1997) has also long been available to the public on OSHA's Hazard Communication web page. More recently, OSHA conducted an updated review of the literature published since the 1997 review. This updated review examined the literature relevant to specific hazard communication provisions of the GHS (ERG, 2007).

Further work related to comprehensibility was conducted during the GHS negotiations by researchers in South Africa at the University of Cape Town—the result is an annex to the GHS related to comprehensibility testing (see GHS Annex 6, Comprehensibility Testing Methodology) (United Nations, 2009). Such testing has been conducted in some of the developing countries preparing to implement the GHS, and has provided these countries with information about which areas in the GHS will require more training in their programs to ensure people understand the information. The primary purpose of these activities was to ensure that the system developed was designed in such a way that the messages would be effectively conveyed to the target audiences, with the knowledge that the system would be implemented internationally in different cultures with varying interests and concerns.

Also among the agreed principles that were established to guide development of the GHS was that the level of protection offered by an existing hazard communication system should not be reduced. Following these principles, the best aspects of existing systems were identified and included in a single, harmonized approach to classification, labeling, and development of SDSs.

The GHS was developed by a large group of experts representing a variety of perspectives. Over 200 experts provided technical input on the project. The United Nations Sub-Committee of Experts on the GHS, the body that formally adopted the GHS and is now responsible for its maintenance, includes 32 member nations as well as 17 observer nations. Authorities from these member states are able to convey the insight and understanding acquired by regulatory authorities in different sectors, and to relate their own experiences in implementation of hazard communication requirements. In addition, over two dozen international and intergovernmental organizations, trade associations, and unions are represented, and their expertise serves to inform the member nations. The GHS consequently represents a consensus recommendation of experts with regard to best practices for effective chemical hazard communication, reflecting the collective knowledge and experience of regulatory authorities in many nations and in different regulatory sectors, as well as other organizations that have expertise in this area. A number of United States-based scientific and professional associations have endorsed adoption of the GHS. The American Chemical Society indicated its support for the GHS, stating: ''The American Chemical Society (ACS) strongly supports the adoption of the GHS for hazard communication in general and specifically as outlined in the ANPR'' adding that ''* * * ACS anticipates that OSHA implementation of GHS in the U.S. will enhance protection of human health and the environment through warnings and precautionary language that are consistent across different products and materials as well as across all workplaces'' (Document ID #0165). In comments submitted in response to the ANPR, the American Industrial Hygiene Association (AIHA) affirmed its support for modification of the HCS to adopt the GHS. AIHA maintained that standardized labels and safety data sheets will make hazard information easier to use, thereby improving protection of employees (Document ID #0034). The American Society of Safety Engineers also indicated its support for the GHS rulemaking (Document ID #0139). While acknowledging that the GHS presents a number of concerns and challenges, the Society of Toxicology has also expressed its support for the GHS, stating that ''a globally harmonized system for the classification of chemicals is an important step toward creating consistent communications about the hazards of chemicals used around the world'' (SOT, 2007). The American Association of Occupational Health Nurses joined these organizations in advocating adoption of the GHS, arguing that standardization of chemical hazard information is critical to protecting the safety and health of employees (Document ID #0099). The positions taken by these organizations point to wide support for the GHS among the scientific and professional communities.

In addition to the endorsement of the GHS by a group of experts with extensive knowledge and experience in chemical hazard communication and support from scientific and professional associations with expertise in this area, a substantial body of evidence indicates that the proposed modifications to the HCS will better protect employees. Specifically, this evidence supports OSHA's belief that: (1) Standardized label elements—signal words, pictograms, hazard statements and precautionary statements—would be more effective in communicating hazard information; (2) standardized headings and a consistent order of information would improve the utility of SDSs; and (3) training would support and enhance the effectiveness of the new label and SDS requirements.

This evidence was obtained from a number of sources. OSHA has commissioned several studies to examine the quality of information on SDSs (Karstadt, 1988; Kearney/Centaur 1991a, 1991b; Lexington Group, 1999); the General Accounting Office (GAO) has issued two reports based on its evaluation of certain aspects of the HCS (GAO 1991, 1992); a National Advisory Committee on Occupational Safety and Health (NACOSH) workgroup conducted a review of hazard communication and published a report of its findings (NACOSH, 1996); and a substantial amount of scientific literature relating to hazard communication has been published. As mentioned previously, OSHA commissioned a review of the literature, and a report based on that review was published in 1997 (Sattler *et al.,* 1997). An updated review was published in 2007 (ERG, 2007). In addition, OSHA conducted a review of the requirements of the HCS and published its findings in March of 2004 (OSHA, 2004). Key findings derived from these sources are discussed below.

OSHA's rationale for adopting the GHS is tied to anticipated improvements in the quality and consistency of the information that would be provided to employers and employees. Hazard classification is the foundation for development of this improved information. Indeed, hazard classification is the procedure of identifying and evaluating available scientific evidence in order to determine if a chemical is hazardous, and the degree of hazard, pursuant to the criteria for health and physical hazards set forth in the standard. Hazard classification provides the basis for the hazard information that is provided in labels, SDSs, and employee training. As such, it is critically important that classification be performed accurately and consistently.

The GHS provides detailed scientific criteria to direct the evaluation process. The specificity and detail provided help ensure that different evaluators would reach the same conclusions when evaluating the same chemical. Moreover, the GHS refines that classification process by establishing categories of hazard within most hazard classes. These categories indicate the relative degree of hazard, and thereby provide a basis for determining precise hazard information that is tailored to the level of hazard posed by the chemical. The classification criteria established in the GHS thus provide the necessary basis for development of the specific, detailed hazard information that would enhance the protection of employees.

Labels

Labels provide a brief, conspicuous hazard summary at the work site where a chemical is used. Labels serve as an immediate visual reminder of chemical hazards, and complement the information presented in training and on SDSs.

The HCS currently requires that labels on hazardous chemical containers include the identity of the hazardous chemical; appropriate hazard warnings that convey the specific physical and health hazards, including target organ effects; and the name and address of the chemical manufacturer, importer, or other responsible party. The HCS does not specify a standard format or design elements for labels.

OSHA is proposing a requirement that labels include four new, standardized elements: a signal word; hazard statement(s); pictogram(s); and precautionary statement(s) (see Section XV for a detailed discussion of the proposed requirements). The appropriate label elements for a chemical would be determined by the hazard classification. OSHA believes that these standardized label elements would better convey critically important hazard warnings, and provide useful information regarding precautionary measures that would serve to better protect employees.

A great deal of literature has been developed that examines the effectiveness of warnings on labels. However, some important limitations must be recognized in applying this information to workplace labels for hazardous chemical products. Most studies have examined labels for prescription and non-prescription medications, alcoholic beverages, or consumer products. Relatively few studies pertain specifically to labels for hazardous chemicals in the workplace. Much of the literature is also characterized by the use of research subjects such as college students or consumers. Such subjects may not be representative of workplace populations, as these subjects may differ from typical employees in terms of product knowledge, hazard perception, perceptual abilities, and safety motivation. In addition, some studies involve non-U.S. populations that may not be representative of the U.S. workforce.

Nevertheless, the literature provides a substantial body of information applicable to workplace chemical labels. In spite of the differences in affected populations, workplace chemical labels have many characteristics that are comparable to those found in other sectors. Pharmaceutical labels, for example, are similar to chemical labels in that they often have explicit instructions for use which, if not followed, can cause adverse health effects or death. Designers of pharmaceutical labels also encounter many of the same challenges faced by those who design chemical labels, such as container space limitations and the need to convey information to low-literate or non-English literate users. In addition, some of the research is not directly related to any particular sector or type of product. Some findings related to use of color, for example, could reasonably be applied to a wide variety of label applications. Relevant finding from the literature are presented in the sections that follow.

Signal Words

A signal word is a word that typically appears near the top of a warning, sometimes in all capital letters. Common examples include DANGER, WARNING, CAUTION, and NOTICE. The signal word is generally understood to serve a dual purpose: alerting the user to a hazard and indicating a particular level of hazard. For example, users generally perceive the word DEADLY to indicate a far greater degree of hazard than a term like NOTICE.

The proposal prescribes one of two signal words for labels—DANGER or WARNING—depending on the hazard classification of the substance in question. These are the same two signal words used in the GHS. DANGER is used for the more severe hazard categories, while WARNING denotes a less serious hazard. These signal words are similar to those in other established hazard communication systems, except that some other systems have three or more tiers. For example, ANSI Z129.1 (the American National Standard for Hazardous Industrial Chemicals—Precautionary Labeling) uses DANGER, WARNING, and CAUTION, in order of descending severity (ANSI, 2006).

A number of recent studies have examined how people perceive signal words and, in particular, how they perceive signal words to be different from one another. Overall, this research supports the use of signal words in labels, demonstrating that they can attract attention and help people clearly distinguish between levels of hazard. The research also supports the decision to use only two tiers, as many recent studies have found clear differences between DANGER and WARNING but little perceived difference between WARNING and CAUTION.

Wogalter *et al.* investigated the influence of signal words on perceptions of hazard for consumer products (Wogalter *et al.,* 1992). Under the pretext of a marketing research study, 90 high school and college students rated product labels on variables such as product familiarity, frequency of use, and perceived hazard. Results showed that the presence of a signal word increased perceived hazard compared to its absence. Between extreme terms (*e.g.,* NOTE and DANGER), significant differences were noted.

Seeking to test warning signs in realistic settings, Adams *et al.* tested five industrial warning signs on a group of 40 blue-collar workers employed in heavy industry, as well as a group of students (Adams *et al.,* 1998). Signs were manipulated to include four key elements (signal word, hazard statement, consequences statement, and instructions statement) or a subset of those elements. Participants were asked questions to gauge their reaction and behavioral intentions. Overall, 77 percent (66 percent of the worker group) recognized DANGER as the key word when it appeared, and more than 80 percent recognized BEWARE and CAUTION, suggesting that the signal word was generally noticed, and it was recognized as the key alerting element. DANGER was significantly more likely than other words to influence behavioral intentions.

Laughery *et al.* also demonstrated the usefulness of signal words. The authors tested the warnings on alcoholic beverage containers in the U.S., and found that a signal word (WARNING) was one of several factors that decreased the amount of time it took for participants to locate the warning. (Laughery *et al.,* 1993).

Several studies have tested the arousal strength or perceived hazard of different signal words. *Arousal strength* is a term used to indicate the overall importance of the warning, and incorporates both the likelihood and severity of the potential threat. Silver and Wogalter tested the arousal strength of signal words on college students and found that DANGER connoted greater strength than WARNING and CAUTION (Silver and Wogalter, 1993). The results failed to show a difference between WARNING and CAUTION. Among other words tested, DEADLY was seen as having the strongest arousal connotation, and NOTE the least.

Griffith and Leonard asked 80 female undergraduates (who were unlikely to have already received industrial safety training) to rate signal words. Results included a list of terms in order of ''meaningfulness,'' representing conceptual ''distance'' from the neutral

term NOTICE (Griffith and Leonard, 1997). From most to least meaningful, these terms were reported to be DANGER, URGENT, BEWARE, WARNING, STOP, CAUTION, and IMPORTANT.

Wogalter *et al.* asked over 100 undergraduates and community volunteers to rank signal words (Wogalter *et al.,* 1998). DEADLY was perceived as most hazardous, followed by DANGER, WARNING, and CAUTION. All differences were statistically significant. In a follow-up experiment using labels produced in the ANSI Z535.2 (American National Standard for Environmental and Facility Safety Signs), ANSI Z535.4 (American National Standard for Product Safety Signs and Labels), and alternative formats, the authors found a similar rank order for signal words with all labeling systems. Finally, the authors tested the same terms on employees from manufacturing and assembly plants and found the same general order: DEADLY, then DANGER, then WARNING and CAUTION with no significant difference between the last two terms.

In more of a free-form experiment, Young asked 30 subjects to produce warning signs for a set of scenarios, using different sign components available on a computer screen (Young, 1998). In roughly 80 percent of the signs, the participant chose to use a signal word. DANGER, DEADLY, and LETHAL were more likely to be used for scenarios with severe hazards; CAUTION and NOTICE for non-severe scenarios. WARNING was used equally in both types of scenarios. The author suggests that these results support a two-tiered system of signal words. In a separate task, users ranked the perceived hazard of signal words, resulting in the following list from most to least severe: DEADLY, LETHAL, DANGER, WARNING, CAUTION, and NOTICE.

While these studies have focused on the relative perceptions of signal words, others have sought to evaluate how the absolute meaning of common signal words is perceived. Drake *et al.* asked a group of students and community volunteers to match signal words with definitions borrowed from consensus standards and other sources (Drake *et al.,* 1998). Participants matched DANGER to a correct definition 64 percent of the time, while NOTICE was matched correctly 68 percent of the time. WARNING and CAUTION were matched correctly less than half of the time, suggesting confusion. The authors recommended using WARNING and CAUTION interchangeably. The authors also suggested that a standard set of signal words (but not synonyms) is helpful for users with limited English skills, who can be trained to recognize a few key words.

Signal word perceptions are reported to be consistent among some non-U.S. populations, as well. Hellier *et al.* asked 984 adults in the UK to rate DANGER, WARNING, and CAUTION on a hazard scale from 1 (low) to 10 (high) (Hellier *et al.,* 2000a). DANGER was ranked as 8.5, WARNING was ranked as 7.8, while CAUTION was rated as 7.25. These results are consistent with the findings of studies on subjects in the U.S. In a second study published in 2000, Hellier *et al.* asked a mixed-age group of participants in the UK to rate the arousal strength of 84 signal words commonly used in the U.S. (Hellier *et al.,* 2000b).The authors found that DANGER is stronger than WARNING, while WARNING and CAUTION are not significantly different from each other.

Similar results were found among workers in Zambia. Banda and Sichilongo tested GHS-style labels using four different signal words (as well as other variables) (Banda and Sichilongo, 2006). Among workers in the industrial and transport sectors, DANGER was generally perceived as the most hazardous signal word. WARNING was one of a group of terms that were largely indistinguishable from one another, but distinct from DANGER. The authors support adoption of the GHS, suggesting that having just two possible signal words will lead to ''more impact and less confusion about the extent of hazard.''

In addition, comparable results were found in South Africa (London, 2003). In a large study on SDS and label comprehensibility conducted for South Africa's National Economic Development and Labour Council (NEDLAC), DANGER was generally ranked as more hazardous than WARNING by participants in the four sectors tested: industry, transport, agriculture, and consumers.

Cumulatively, these studies provide a clear indication that signal words are effective in alerting readers that a hazard exists, and in conveying the existence of a particular level of hazard. The studies have found a generally consistent hierarchy of signal words with respect to perceived hazard. DANGER and WARNING appear to connote different levels of hazard, while the perceived difference between WARNING and CAUTION is often insignificant.

Pictograms

A pictogram is a graphical composition that may include a symbol along with other graphical elements, such as a border or background color. A pictogram is a communication tool and is intended to convey specific information.

The proposed rule includes requirements for use of eight different pictograms. Each of these pictograms consists of a different symbol in black on a white background within a red square frame set on a point (*i.e.,* a red diamond). The specific pictograms that are required on a label would be determined based on the hazard classification of the substance in question.

OSHA believes that the proposed pictograms would make warnings on labels more noticeable and easier for employees to understand. In particular, symbols are expected to improve comprehension among people with low literacy and those who are not literate in the English language. It should be remembered that pictograms would be used not only in conjunction with other label elements, but in the context of the hazard communication program as a whole. Training that includes an explanation of labels (included in the proposed rule) would ensure that pictograms are understood by employees.

A considerable amount of evidence supports the belief that pictograms can serve as useful and effective communication tools. In reviewing this evidence, it should be noted that some sources offer distinct definitions for ''pictogram,'' ''pictorial,'' ''symbol,'' and other terms describing graphical elements. For example, Rogers *et al.* state that: ''Pictorials refer to pictures that represent the concept of interest (*e.g.,* a picture of a fire extinguisher). Symbols are more abstract representations of a concept, the meaning of which must be learned (*e.g.,* the use of a skull and crossbones to denote poison)'' (Rogers *et al.,* 2000). ANSI and others combine these terms in the definition of ''symbol,'' however, and for the purposes of discussing the literature on this subject, these terms are used interchangeably.

Symbols serve several important functions in warning labels. As Wogalter *et al.* explain, symbols may alert the user to a hazard more effectively than text alone:

> Symbols may be more salient than text because of visual differentiations of shape, size, and color. Usually symbols have unique details and possess more differences in appearance than do the letters of the

alphabet. Letters are highly familiar and are more similar to one another than most graphical symbols (Wogalter *et al.,* 2006).

Symbols also can bolster a text message and improve label comprehension among individuals with low literacy, and those who do not understand the language in which the label text is written (Parsons *et al.,* 1999).

Several researchers have sought to evaluate how people comprehend symbols, including those symbols that are incorporated in the proposed rule. Some studies have found that the skull and crossbones icon—one of the symbols included in the proposed rule—is among the most recognizable safety symbols. For example, Wogalter *et al.* asked 112 undergraduates and community volunteers to rank various label elements (Wogalter *et al.,* 1998). Among shapes and icons, the skull symbol (in this case, without the crossbones) was rated most hazardous and most noticeable. The skull connoted the greatest hazard among industrial employees as well. Smith-Jackson and Wogalter asked 48 English-speaking workers to rate the perceived hazards of six alerting symbols (Smith-Jackson and Wogalter, 2000). The skull was rated significantly higher than all other symbols.

Some research has examined other pictograms included in the proposed rule. As part of an experiment to see how individuals comprehend warnings on household chemical labels, Akerboom and Trommelen asked 60 university students whether they understood the meaning of several pictograms, including four that are included in the proposed rule (Akerboom and Trommelen, 1998). The authors reported the following levels of comprehension for these pictograms:

- Flame: 93 percent comprehension;
- Skull and crossbones: 85 percent comprehension;
- Corrosion: 20 percent comprehension; and
- Flame over circle: 13 percent comprehension.

Only the flame and skull and crossbones pictograms met the 85 percent comprehension criteria suggested by ANSI Z535.3 (the American National Standard Criteria for Safety Symbols) (ANSI, 2002a). The authors recommend that labels present the hazard phrase [statement] and symbol together, along with corresponding precautions, as would be required under the proposed rule.

Banda and Sichilongo tested comprehension of labels that included the proposed pictograms among 364 workers in four sectors in Zambia (transport, agriculture, industrial, and household consumers) (Banda and Sichilongo, 2006). Within this population, the skull and crossbones symbol was widely understood, as was the ''flame'' symbol. Based on these results, the authors suggest a preference for symbols that depict familiar, meaningful, and recognizable images.

London performed a similar study among the same four sectors in South Africa, finding that the skull and crossbones was understood by at least 96 percent of each sector and ''flame'' by at least 89 percent (London, 2003). ''Exploding bomb'' was correctly comprehended by 44 to 71 percent of each sector. Many health-related symbols did not fare well, and six symbols had less than 50 percent comprehension across all four sectors. Outside the transport sector, ''Gas cylinder'' was the least well comprehended symbol.

These findings indicate that some of the pictograms included in the proposed rule are already widely recognized by a general audience. Others, however, are not commonly understood. Therefore, simply adding some of the proposed pictograms on labels will not provide useful information unless efforts are also undertaken to ensure that employees understand the meaning of the pictograms. As Wogalter *et al.* noted, some studies have found slower processing, poorer recognition, and greater learning difficulties with symbols versus with text—particularly if the symbols are complex or non-intuitive (Wogalter *et al.,* 2006). These results emphasize the need to train employees on the meaning of the pictograms that would be included on chemical labels.

Where pictograms are used and understood, communication of hazards can be improved. Houts *et al.* studied long-term recall of spoken medical instructions when accompanied by a handout with pictograms (Houts *et al.,* 2001). Nearly 200 pictograms were tested with 21 low-literate adults (less than grade 5 reading level). Immediately after training, participants recalled the meaning of 85 percent of the pictograms, and they recalled 71 percent after 4 weeks. This study found that recall was better for simple pictograms where there is a direct relationship between the image and its meaning—that is, where no inference is required.

Another body of literature focuses on the utility of symbols in general. Ganier found that people generally construct mental representations faster with pictures than they do with text, supporting earlier findings on the usefulness of symbols (Ganier, 2001). Evans *et al.* found similar results with a task in which undergraduates were asked to sort items into categories using either text clues, visual clues, or a combination of pictures and text (Evans *et al.,* 2002). When categories were fixed (*i.e.,* sorting instructions were specific), people sorted the cards more consistently with one another when presented with pictures than when presented with text alone.

In a follow-up article on the South African study mentioned previously, Dowse and Ehlers found that patients receiving antibiotics adhered to instructions much better when the instructions included pictograms (54 percent with high adherence, versus 2 percent when given text-only instructions) (Dowse and Ehlers, 2005).

Pictograms also serve to attract attention to the hazard warnings on a label. To examine factors that influence the effectiveness of pharmaceutical labels, Kalsher *et al.* asked subjects to rate the noticeability, ease of reading, and overall appeal of labels with or without pictorials (Kalsher *et al.,* 1996). A group of 84 undergraduates gave consistently higher ratings to labels with pictorials. A group of elderly subjects had similar preferences, rating labels with pictorials as significantly more noticeable and likely to be read.

Laughery *et al.* found similar results with a timed test on alcoholic beverage labels (Laughery *et al.,* 1993). When a pictorial was present to the left of the warning showing what not to do when drinking, the amount of time it took to find the label was significantly reduced. An icon consisting of the alert symbol (an exclamation mark set within a triangle) and the signal word WARNING also decreased response time. The fastest response time came when four different enhancements (including the pictorial and the icon) were included. In a follow-up exercise, an eye scan test found that the pictorial had a particularly strong influence on reaction time, compared with other enhancements.

As far as chemical labels are concerned, London found that symbols tend to be the most easily recalled label elements (London, 2003). In the comprehensibility test of labels among South African workers mentioned previously, symbols were the most commonly recalled elements—particularly the skull and crossbones—and people recalled looking at symbols first. Symbols were also cited as by far the most important factor in determining hazard perception. Overall, the author concludes that ''Symbols are therefore key to attracting attention, and informing risk perception regarding a chemical.''

Wogalter *et al.* found less encouraging evidence on pictorials, however (Wogalter *et al.,* 1993). The authors tested the influence of various warning variables on whether subjects wore proper protective equipment during a task involving measuring and mixing chemicals. Warning location and the amount of clutter around the warning had significant effects on compliance, but the presence or absence of pictorials did not.

Meingast asked subjects to recall warning content after viewing labels that were considered either high quality (with color signal icons, pictorials, and organized text conforming to ANSI Z535.4, the American National Standard for Product Safety Signs and Labels) or low quality (text only) (Meingast, 2001). Pictorials were the items remembered most often, accounting for 48 percent of what viewers of high quality labels recalled. The author suggests that these pictorials also served the role of dual coding, meaning that they help to improve the retention of corresponding text.

Other recent studies support this dual-coding function of pictorials, finding that symbols tend to be most effective when paired with redundant or reinforcing text. For example, Sojourner and Wogalter asked 35 participants to rate several prescription label formats in terms of ease of reading, ease of understanding, overall effectiveness, likelihood of reading, overall preference, pictorial understanding, and how helpful pictorials are in helping to remember the instructions (Sojourner and Wogalter, 1997). The authors found that people prefer fully redundant text and pictorials, which they judged easiest to read, most effective, and preferred overall. Dual-coded pictorials aided understanding and memory more than labels with pictorials only (no text). In a follow-up study, Sojourner and Wogalter gave undergraduates, young adults, and older adults a free recall test after viewing medication labels (Sojourner and Wogalter, 1998). Fully redundant text and pictorials led to significantly greater recall than other formats, and were rated most effective by all age groups.

Similarly, Sansgiry *et al.* found that pictograms on over-the-counter drug labels improved comprehension, but only when they were congruent with the corresponding text (Sansgiry *et al.,* 1997). A group of 96 adults were less confused, more satisfied, more certain about their knowledge, and understood more when shown labels that contained congruent pictures and verbal instructions, versus verbal instructions alone. The results were significantly better with congruent pictures and text than with either pictures alone or incongruent pictures and text.

Some evidence links use of pictograms directly to safer behavior. Jaynes and Boles investigated whether different warning designs, specifically those with symbols, affect compliance rates (Jaynes and Boles, 1993). Five conditions were tested: a verbal warning, a pictograph warning with a circle enclosing each graphic, a pictograph warning with a triangle on its vertex enclosing each graphic, a warning with both words and pictographs, and a control (no warning). Participants performed a chemistry laboratory task using a set of instructions that contained one of the five conditions. The warnings instructed them to wear safety goggles, mask and gloves. All four warning conditions had significantly greater compliance than the no-warning condition. A significant effect was also found for the ''presence of pictographs'' variable, suggesting that the addition of pictographs will increase compliance rates.

In addition to the evidence pertaining to the other graphical elements in pictograms, research indicates that the use of the color red in pictograms will serve to make warnings more noticeable. Red is also generally perceived to reflect the greatest degree of hazard, and is thus well-suited to identifying serious chemical hazards in the workplace.

In their review of the literature on warning effectiveness on behavioral compliance, Kalsher and Williams summarize several studies that examined the effects of adding color to warnings (Kalsher and Williams, 2006). Overall, Kalsher and Williams suggest that adding color can influence both the noticeability and effectiveness of warnings.

In a test on the noticeability of warnings, Swindell measured the amount of time it took subjects to locate warning text that had been embedded in medication instructions (Swindell, 1999). Warnings were found significantly faster when the icon and signal word were presented in either red or blue, causing the warning to stand out from the black text. Swindell's findings echo the results reported by Laughery *et al.,* who found that alcoholic beverage labels were located significantly faster when the text was red instead of black (Laughery *et al.,* 1993). While these studies involve color on label elements other than the pictogram border, they provide a general indication that color attracts the attention of label users.

A number of researchers have investigated the hazard connotations of different colors. These investigations indicate that red is generally perceived to reflect the greatest degree of hazard. Yellow, orange, and black reflect a lesser degree of hazard. In a review of the literature, Parsons *et al.* suggest that the red-orange-yellow hierarchy generally matches people's perceptions of risk, including perceptions among native Spanish speakers (Parsons *et al.*, 1999). Experimental results that support the conclusion that red generally connotes the highest degree of hazard include:

■ Smith-Jackson and Wogalter asked English-speaking community members to rate the perceived hazard of ten ANSI safety colors (Smith-Jackson and Wogalter, 2000). Red, yellow, black, and orange were rated the highest (in descending order). Differences were statistically significant except the difference between yellow and black.

■ Among 80 college students asked to rate colors by Griffith and Leonard, red was rated the most ''meaningful'' color (*i.e.,* most distinct in meaning from neutral gray), followed by green, orange, black, white, blue, and yellow (Griffith and Leonard, 1997).

■ Wogalter *et al.* asked Spanish speakers to rank the perceived hazard of ANSI safety colors (Wogalter *et al.,* 1997b). Red was ranked highest, followed by orange, black, and yellow.

■ Dunlap *et al.* surveyed 1169 subjects across several different language groups including English, German, and Spanish speakers (Dunlap *et al.,* 1986). Subjects rated the color words red, orange, yellow, blue, green, and white according to the level of perceived hazard. The results demonstrated that the hazard information communicated by different colors followed a consistent pattern across language groups, with red having the highest hazard ratings.

■ Wogalter *et al.* asked undergraduates and community volunteers to rank various warning components (Wogalter *et al.*, 1998). Red connoted a significantly greater hazard than other colors, followed by yellow, orange, and black (in that order). A group of industrial workers ranked the colors from greatest to least hazard as follows: red, yellow, black, orange.

■ London asked workers in four sectors in South Africa to rank the colors red, yellow, green, and blue in terns of perceived hazard; 95 percent said red represents the greatest hazard, and 58 percent said yellow is the second greatest hazard (London, 2003).

■ Banda and Sichilongo asked workers in Zambia to rate the perceived hazard of various colors used in chemical labels (Banda and Sichilongo,

2006). Red was associated with the greatest hazard, followed by yellow.

■ Among a sample of 30 undergraduates who rated the perceived hazard of 105 signal word/color combinations, Braun *et al.* reported that red conveyed the highest level of perceived hazard followed by orange, black, green, and blue (Braun *et al.,* 1994).

These reports are consistent in indicating that red is commonly understood to be associated with a high level of hazard—the highest of any color. OSHA anticipates that by using the color red on labels for hazardous chemicals, labels will be more effective in communicating hazards to employees—both by drawing the attention of employees and indicating the presence of a hazard through non-verbal means.

Hazard and Precautionary Statements

Hazard statements describe the hazards associated with a chemical. Precautionary statements describe recommended measures that should be taken to protect against hazardous exposures, or improper storage or handling of a chemical. The HCS currently includes a performance-oriented requirement for ''appropriate hazard warnings'' on labels. The proposed rule would require specific hazard statements and precautionary statements on labels. The statements would be determined based on the hazard classification of the chemical.

Standardized requirements for hazard and precautionary statements would provide a degree of consistency that is currently lacking among chemical labels. This lack of consistency makes it difficult in some instances for users to understand the nature and degree of hazard associated with a chemical, and to compare chemical hazards. For example, Beach relates experiences from the perspective of a doctor treating occupationally exposed patients (Beach, 2002). The author noted that different suppliers use different risk phrases for the same chemical, making it difficult for users to compare relative risks.

ANSI standard Z129.1 was developed to provide a consistent approach to labeling of hazardous chemicals. This standard gives manufacturers and importers guidance on how to provide information on a label, including standardized phrases and other information that can improve the quality of labels. Because it is a voluntary standard, however, the ANSI approach has not been adopted by all chemical manufacturers and importers. As a result of the diverse formats and language used, consistent and understandable presentation of information has not been fully achieved.

A preference for hazard statements was shown in EPA's Consumer Labeling Initiative (Abt Associates, 1999). This study asked consumers about their attitudes toward labels on household chemical products. Overall, consumers indicated that they like to have information that clearly connects consequences with actions, and they prefer to know why they are being instructed to take a particular precaution. A clear hazard statement can provide this information.

In some cases, clear and concise precautionary information is necessary to enable employees to identify appropriate protective measures. For example, Frantz *et al.* examined the impact of flame and poison warning symbols prescribed in certain regulations by the Canadian government (Frantz *et al.,* 1994). The results suggest that although the generic meanings of these two symbols are well understood, people may have difficulty inferring the specific safety precautions necessary for a particular product.

Other reports have indicated that users prefer information that includes both an indication of the hazard and the recommended action (*i.e.,* the precautionary statement). Braun *et al.* examined statements in product instructions for a pool treatment chemical and a polyvinyl chloride (PVC) adhesive, asking subjects to rate the injury risk posed by each product (Braun *et al.,* 1995). The experimenters manipulated the instructions to include either recommended actions only, actions followed by consequences, consequences followed by actions, or a simple restatement of the product label. The authors found that actions paired with consequences led to significantly higher risk perception than a restatement of the label or actions alone. Although the preferred wording was longer than the alternatives, subjects did not feel that the instructions were too complex, suggesting that they appreciate having actions and consequences paired together. Freeman echoed these findings in a discussion on communicating health risks to fishermen and farmers, noting that to be useful, risk statements should be balanced with equally strong statements of ways to reduce or avoid the risk (Freeman, 2001).

Explicit precautionary statements may make it more likely that employees will take appropriate precautions. Bowles *et al.* asked subjects to review product warnings, then either decide what actions they should take or evaluate whether someone else's actions were safe, based on the warning (Bowles *et al.,* 2002). In general, situations that required the user to make inferences about a hazard—particularly when they had to come up with their own ideas for protective actions—led to decreased intent to comply. By providing clear precautionary instructions on the label, the proposed rule would eliminate the need for users to infer protective actions.

Some evidence indicates that using key label elements together can improve warning performance, compared with labels that only contain a subset of these elements. This is the approach taken in the proposed rule, which would require the signal word, pictogram(s), hazard statement(s), and precautionary statement(s) together on the label. In one study, Meingast asked students to recall information from two variations of warning labels: enhanced warnings with color, signal icons, pictorials, and organized text (following the ANSI Z535.4 standard); and warnings with text only (Meingast, 2001). The authors reported that the enhanced warnings were more noticeable, led to significantly greater recall, and made people report a higher likelihood of compliance.

Other findings agree that improving all label elements can improve warning performance. For example, Lehto tested information retrieval from three chemical label formats and found that subjects generally did best with an ''extensive'' format that included pictograms, paragraphs, and horizontal bars indicating the degree of hazard (Lehto, 1998). Subjects were able to answer more questions correctly when the label included a range of content—particularly information on first aid and spill procedures.

Wogalter *et al.* reported similar results in a test of four different signs that discouraged people from using an elevator for short trips (Wogalter *et al.,* 1997a). Three signs were text-only. The fourth sign had a signal word panel, icons, a pictorial, and more explicit wording indicating the desired behavior (*i.e.,* ''use the stairs''). Subjects rated the enhanced sign as more understandable, and a field test found that it significantly increased compliance over the other options.

The effectiveness of a combination of elements was also investigated in a study of warnings on alcoholic beverage containers (Laughery *et al.,* 1993). Laughery *et al.* tested warnings to determine which elements influenced noticeability. The authors manipulated labels by adding a pictorial, adding an alert symbol with a signal word, making the text red, and/or adding a border around the warning. The warning was

located fastest when all four of these modifications were present, suggesting that the best designs include a combination of enhancements.

These findings support the belief that the proposed label elements, in combination, would likely be more effective in communicating hazard information than the individual elements would be if presented alone. Although the warnings examined in these studies are different than those included in the proposed rule, they indicate that enhancements such as color and symbols can increase the effectiveness of a label, and that presenting hazard information and corresponding precautions together may improve understanding. OSHA therefore believes that this evidence substantiates its belief that the proposed labeling requirements will result in more effective transmittal of information to employees.

Overall, the presentation of information on labels through standardized signal words, hazard statements, pictograms, and precautionary statements would provide clearer, more consistent, and more complete information to chemical users. Comments received in response to the ANPR support this view (*e.g.*, Document ID #s 0054, 0032, 0124, 0124, and 0158). For example, the Refractory Ceramic Fibers Coalition (Document ID #0030) pointed to the benefits of this approach, stating:

> Employers and employees would be given the same information on a chemical regardless of the supplier. This consistency should improve communication of the hazards. It may also improve communication for those who are not functionally literate, or who are not literate in the language written on the label. In addition, having the core information developed already, translated into multiple languages, and readily available to whomever wishes to access it, should eliminate the burden on manufacturers and users to develop and maintain their own such systems. Thus the specification approach should be beneficial both to the producers and the users of chemicals.

Labels are intended to provide an immediate visual reminder of chemical hazards. Whereas labels currently may be presented in a variety of formats using inconsistent terminology and visual elements, labels prepared in accordance with the proposed requirements would be consistent. Standardized signal words and hazard statements would attract attention and communicate the degree of hazard. Pictograms would reinforce the message presented in text and enhance communication for low-literacy populations. Precautionary statements would provide useful instructions for protecting against chemical-source injuries and illnesses.

Safety Data Sheets

The HCS requires chemical manufacturers and importers to develop an SDS for each hazardous chemical they produce or import. SDSs serve as a source of detailed information on chemical hazards and protective measures. Each SDS must indicate the identity of the chemical used on the label; the chemical and common name(s) of hazardous ingredients; physical and chemical characteristics; physical and health hazards; the primary route(s) of entry; exposure limits; generally applicable precautions for safe handling and use; generally applicable control measures; emergency and first aid procedures; the date of preparation of the SDS; and the name, address and telephone number of the party preparing or distributing the SDS. The HCS does not require this information to be presented in any particular order or to follow a specific format.

Since the HCS was adopted in 1983, access to chemical information has improved dramatically due to the availability of SDSs. While the effectiveness of SDSs is evident, there are concerns regarding the quality of information provided. In particular, concerns have been raised regarding the accuracy (*i.e.*, the correctness and completeness of the information provided) and comprehensibility (*i.e.*, the ability of users to understand the information presented) of information provided on SDSs.

OSHA is proposing a requirement that the information on SDSs be presented using consistent headings in the sequence specified in the GHS (see Section XV for a detailed discussion of the proposed requirements). The Agency believes that a standardized order of information would improve the utility of SDSs by making it easier for users to locate and understand the information they are seeking. A standardized format would also be expected to improve the accuracy of the information presented on SDSs.

A number of studies have demonstrated the benefits provided by SDSs. In May 1992, the General Accounting Office (GAO) issued a report presenting the findings of an examination of difficulties small employers were said to experience in complying with the HCS, as well as issues relating to the costs of compliance (GAO, 1992). The findings were based on the results of a national survey of construction, manufacturing, and personal services providers. A total of 1,120 responses were received from employers.

One very important finding of the GAO survey was that almost 30% of employers reported that they had replaced a hazardous chemical with a less hazardous substitute because of information presented on an SDS. With regard to the HCS as a whole, GAO found that over 56% of employers reported ''great'' or ''very great'' improvement in the availability of hazard information in the workplace and in management's awareness of workplace hazards. Forty-five percent of those in compliance with the HCS considered the standard to have a positive effect on employees, compared with only 9% who viewed the effect as negative. The results indicate that when chemical hazard information is provided, the result is generally recognized as beneficial to employees.

A number of other studies support this conclusion. For example, in a survey of 160 workers at a large national laboratory, more than 90 percent of respondents said that SDSs are satisfactory or very satisfactory in providing protective information and answering questions (Phillips *et al.,* 1999).

Conklin demonstrated the utility of SDSs among employees of a multinational petrochemical company (Conklin, 2003). Across three countries (the U.S., Canada, and the United Kingdom), 98 percent felt that the SDS is a satisfactory information source (the percentage was similar across all three countries). Seventy-two percent said they would request an SDS all or most of the time when introduced to a new chemical, although 46 percent of workers said that SDSs are too long. The author notes, however, that this sample did not include any workers with low literacy.

A number of investigations have raised concerns that, in some cases, the information on SDSs is not comprehensible to employees. In 1991, OSHA commissioned a study that evaluated the comprehensibility of SDSs by a group of unionized employees in manufacturing industries located in the State of Maryland (Kearney/Centaur, 1991). The study assessed the ability of these employees to understand information regarding the route of entry of the substance, the type of health hazard present, appropriate protective measures, and sources of additional help.

Each of the 91 participating workers was provided with and tested on four different SDSs. The workers answered the test questions based on information

supplied on each of the SDSs. It should be noted that the employees who volunteered for this study understood that it relied on reading comprehension. This created a selection bias, as employees with reading difficulties would not be likely to volunteer for the study.

The results of the tests indicated that workers on average understood about two-thirds of the health and safety information on the SDSs. The best comprehension was associated with information providing straightforward procedures to follow (*e.g.,* in furnishing first aid, dealing with a fire, or in using personal protective equipment) or descriptions of how a chemical substance can enter the body. Workers had greater difficulty understanding health information addressing different target organs, particularly when more technical language was used. Workers also reportedly had difficulty distinguishing acute from chronic effects based on information presented in the SDSs.

A similar result was reported by Conklin in a study involving employees of a multinational petrochemical company (Conklin, 2003). After viewing information on an unfamiliar chemical in a variety of SDS formats, a questionnaire was administered to workers to gauge their comprehension of the material presented. The workers reportedly answered 65 percent of the questions correctly.

A study that examined the comprehensibility of SDS to master printers was reported by the Printing Industries of America in 1990 (PIA, 1990). The subjects had an average of 13.9 years of formal education, or approximately two years beyond high school. In this study, 27 SDSs were selected and analyzed for reading levels using a software program, finding an average reading grade level of 14. The investigators found that employees with 15 years of education or more understood 66.2% of the information presented.

Some of the difficulty workers experience in understanding information presented on SDSs may be due to the vocabulary used in the document. Information presented at a reading level that exceeds the capability of the user is unlikely to be well understood. An example of this situation was reported by Frazier *et al.* (Frazier *et al.,* 2001). The authors evaluated a sample of SDSs from 30 manufacturers of toluene diisocyanate, a chemical known to cause asthma. Half of the SDSs indicated that asthma was a potential health effect. One SDS made no mention of any respiratory effects, while others used language (*e.g.,* allergic respiratory sensitization) that the authors believed may not clearly communicate that asthma is a risk. However, the more technical language meets the requirements of the HCS.

Other reports substantiate the belief that many SDS users have difficulty understanding the information on the documents. For example, in a study evaluating the comprehensibility of SDSs at a large research laboratory, 39 percent of the workers found SDSs ''difficult to understand'' (Phillips, 1997). The study also indicated that a third of the information provided on SDSs was not understood. These results were obtained from a study population of literate, trained workers who spoke English as their first language.

Smith-Jackson and Wogalter corroborated this finding in a study involving 60 undergraduates and community volunteers (Smith-Jackson and Wogalter, 1998). The subjects were asked to sort SDS data into a logical order. After completing the task, subjects were asked for their opinions on the difficulty of the content. Overall, 43 percent found the information easy to understand, 42 percent said it was not easy, and the remaining 15 percent felt that only scientists, experts, or very experienced workers would be able to understand the information.

These studies are consistent in reporting that workers have difficulty understanding a substantial portion of the information presented on SDSs. This finding can be explained at least in part by the fact that not all of the information on SDSs is intended for workers. SDSs are intended to provide detailed technical information on a hazardous chemical. While they serve as a reference source for exposed employees, SDSs are also meant for other audiences as well. SDSs provide information for the benefit of emergency responders, industrial hygienists, safety professionals, and health care providers. Much of this information may be of a technical nature and would not be readily understood by individuals who do not have training or experience in these areas. For example, language that may be readily understood by a population of firefighters may be poorly understood by chemical workers.

In addition, Title III of the Superfund Amendments and Reauthorization Act (SARA, also known as the Emergency Response and Community Right-to-Know Act of 1986) mandated that SDSs be made available to State emergency response commissions, local emergency planning committees, and fire departments in order to assist in planning and response to emergencies, as well as to provide members of the general public with information about chemicals used in their communities. It is difficult, if not impossible, for a document to meet the informational needs of all of these audiences while being comprehensible to all as well.

Product liability concerns also play a role in the comprehensibility of SDSs. Producers of chemicals may be subject to ''failure to warn'' lawsuits that can have significant financial implications. Attempts to protect themselves against lawsuits can affect the length and complexity of SDSs, as well as the way in which information is presented.

In some cases the length and complexity of SDSs reportedly make it difficult to locate desired information on the documents. For example, in testimony before the U.S. Senate Subcommittee on Employment, Safety, and Training, one hospital safety director described a situation in which an employee was unable to find critical information on an SDS in an emergency situation:

> * * * two gallons of the chemical xylene spilled in the lab of my hospital. By the time an employee had noticed the spill, the ventilation had already sucked most of the vapors into the HVAC. This, in turn, became suspended in the ceiling tile over our radiology department. Twelve employees were sent to the emergency room. To make the matter worse, the lab employee was frantically searching through the MSDS binder in her area for the xylene MSDS. Once she found it, she had difficulty locating the spill response section. After notifying our engineering department, she began to clean up the spill with solid waste rags, known for spontaneous combustion, and placing the rags into a clear plastic bag for disposal. She did not know that xylene has a flash point of 75 degrees Fahrenheit. She then walked the bag down to our incinerator room and left it there, basically creating a live bomb. Twelve people were treated from this exposure. The lab employee was very upset and concerned about the safety of the affected employees and visitors, and hysterically kept stating that she could not find the necessary spill response information (Hanson, 2004).

SDSs at this particular hospital were reported to range from one page to 65 pages in length.

To accommodate the needs of the diverse groups who rely on SDSs, a standardized format has been viewed as a way to make the information on SDSs easier for users to find, and to segregate technical sections of the document from more basic elements. A standardized format was also thought to facilitate computerized information retrieval systems and to simplify employee training.

OSHA established a voluntary format for SDSs in 1985 to assist manufacturers

and importers who desired some guidance in organizing SDS information. This 2-page form (OSHA Form 174) includes spaces for each of the items included in the SDS requirements of the standard, to be filled in with the appropriate information as determined by the manufacturer or importer. However, some members of the regulated community desired a more comprehensive, structured approach for developing clear, complete, and consistent SDSs.

In order to develop this structure, the Chemical Manufacturers Association (now known as the American Chemistry Council) formed a committee to establish guidelines for the preparation of SDSs. This effort resulted in the development of American National Standards Institute (ANSI) standard Z400.1, a voluntary consensus standard for the preparation of SDSs. Employers, workers, health care professionals, emergency responders, and other SDS users participated in the development process. The standard established a 16-section format for presenting information as well as standardized headings for sections of the SDS. An updated version of the ANSI standard published in 2004 is consistent with the GHS format that is included in the proposed rule.

By following the recommended format, the information of greatest concern to employees is featured at the beginning of the document, including information on ingredients and first aid measures. More technical information that addresses topics such as the physical and chemical properties of the material and toxicological data appears later in the document. The ANSI standard also includes guidance on the appearance and reading level of the text in order to provide a document that can be easily understood by readers.

OSHA currently allows the ANSI format to be used as long as the SDS includes all of the information required by the HCS. Because it is a voluntary standard, however, the ANSI format has not been adopted by all chemical manufacturers and importers. As a result, different formats are still used on many SDSs.

The International Organization for Standardization (ISO) has published its own standard for SDS preparation. This standard, ISO 11014–1, has been revised for consistency with the GHS (new version issued in 2009). The standard includes the same 16 sections as the GHS, as well as similar data requirements in each section. These two consensus standards, ANSI Z400.1–2004 and ISO 11014–1 (2009), have essentially the same provisions and are consistent with GHS. There are minor differences, such as units of measure recommended in the national ANSI standard versus the international ISO standard.

Another development has been the creation of International Chemical Safety Cards (ICSCs). The documents, developed by the International Programme on Chemical Safety, summarize essential health and safety information on chemicals for use at the ''shop floor'' level by workers and employers (Niemeier, 1997). ICSCs are intended to present information in a concise and simple manner, and they follow a standardized format that is shorter (one double-sided page) and less complex than the ANSI approach. The ICSCs were field tested in their initial stages of development, and new ICSCs are verified and peer reviewed by internationally recognized experts (Niemeier, 1997). ICSCs have been developed in English for 1,646 chemicals, and are also available in 16 other languages. The ICSCs are being updated to be consistent with the GHS.

A study by Phillips compared the effectiveness of different SDS formats as well as ICSCs among workers at a large national laboratory (Phillips, 1997). The employees represented a variety of trades, including painters, carpenters, truck drivers, and general laborers. Each worker was tested for knowledge regarding a hazardous chemical before and after viewing an SDS or ICSC. Three designs were tested: a 9-section OSHA form, the 16-section ANSI Z400.1 format (an earlier and slightly different version of the current ANSI Z400.1 format), and the 9-section ICSC. A subsequent paper described the final results of this study (Phillips, 1999). All three formats led to significant improvements in subjects' knowledge, and there was no statistically significant difference among the three formats in terms of total test score. However, there were a few significant differences in how well readers of each SDS format answered specific types of questions:

- The ICSC performed better than the OSHA form regarding chronic and immediate health effects.
- The other two formats performed better than the ANSI format on fire-related questions.
- The OSHA form performed better than the other two formats on spill response questions.
- The OSHA form was better than the ANSI format regarding carcinogenic potential.

In a separate comparison, Conklin also found similarities in the overall performance of several standard SDS formats (Conklin, 2003). In this study, employees of a multinational petrochemical company were given one of three versions of an SDS for an unfamiliar chemical: a U.S. version (OSHA's required content within an ANSI Z400.1–1998 16-part structure); a Canadian version following the 9-part structure prescribed by Canada's Workplace Hazardous Materials Information System (WHMIS); and a version following the European Union's content and 16-part structure. SDSs were controlled for font, layout, and reading level. Overall, Conklin found no statistically significant difference in mean post-test scores using the three different formats, although there were significant differences on 5 out of 10 questions (no one format was consistently better).

Because extensive searching can be a barrier to SDS use, researchers have examined whether there is a preferred order of information that more closely matches users' cognitive expectations. Smith-Jackson and Wogalter asked 60 undergraduates and community volunteers to arrange portions of six SDSs in the order they considered most usable (Smith-Jackson and Wogalter, 1998). The authors found a few consistent results:

- Information about health hazards, protective equipment, and fire and explosion data tended to be placed toward the beginning.
- Physical and reactivity data tended to be placed near the end.
- Spill or leak procedures were placed near the beginning or the middle, depending on the type of chemical.

A majority of subjects reported that they had attempted to prioritize the hazard information that needed to be communicated. The participants' suggested order of information generally did not match either the original SDS order or the order listed in the HCS—particularly the subjects' emphasis on health hazard information near the beginning.

In the previously discussed 1991 study that evaluated the comprehensibility of SDSs by a group of 91 unionized workers in manufacturing industries in the State of Maryland, a subset of the group (18 workers) was also tested on an ICSC (Kearney/Centaur 1991). While the results indicated that workers on average understood about two-thirds of the health and safety information on SDSs, ICSCs provided better results. The average ICSC test score ranged from 6% to 23% higher than the average test score on the four SDSs evaluated. This finding was considered by the authors to suggest that an improved format for SDSs may

serve to increase user comprehension of the information presented.

OSHA believes that a standardized format would improve the effectiveness of SDSs. The primary basis for this belief is very simple: A consistent format would make it easier for users to find information on an SDS. Headings for SDS sections would be standardized, so SDS users would know which section to consult for the information they desire. The sections would be presented in a consistent, logical sequence to further facilitate locating information of interest. Information commonly desired by exposed employees and of greatest interest to emergency responders (*e.g.,* Hazards Identification; First Aid Measures) would be presented in the beginning of the document for easy reference. More technical information (*e.g.,* Stability and Reactivity; Toxicological Information) would be presented later.

By segregating more complex information on an SDS from the information that is generally easier to understand, the standardized format included in the proposed rule has the potential to address many of the concerns that have been raised regarding the comprehensibility of information on SDSs. The standardized order of information will allow SDS users who desire only basic information about a hazardous chemical to find that information without having to sift through a great deal of technical information that may have little meaning to them. In emergency situations, rapid access to information such as first-aid measures, fire-fighting measures, and accidental release measures can be critically important.

A standardized format does not address all issues affecting SDS comprehensibility. Reading level and some design elements would continue to vary. In many respects, this is inevitable given the different target audiences that SDSs have, and the varying qualifications of those who prepare SDSs. Nevertheless, OSHA believes that the proposed revisions will result in a substantial improvement in the quality and ease of comprehension of information provided on SDSs.

In addition to the issues regarding comprehensibility, a number of researchers have raised concerns that some SDSs may be incomplete or contain erroneous information. The magnitude of the problem is unclear, because only very limited numbers of SDSs have been evaluated in these studies and in some cases the investigations were performed so long ago that the results may not reflect current practices. Nevertheless, the evidence appears to indicate that a substantial number of SDSs may not contain complete and correct information.

An initial examination of the accuracy of SDSs was commissioned by OSHA shortly after the scope of the rule was expanded to cover all industries in 1987 (Karstadt, 1988). The report, which analyzed the content of 196 SDSs for products used in auto repair and body shops, provided a general indication that the content and presentation of information was inconsistent on the SDSs examined. In 1991, OSHA commissioned an additional study that examined the accuracy of SDSs (Kearnet/Centaur, 1991). The study examined information presented in five areas considered crucial to the health of workers potentially exposed to hazardous substances. These five areas assessed were chemical identification of ingredients; reported health effects of ingredients; recommended first aid procedures; use of personal protective equipment; and exposure level regulations and guidelines. The evaluation indicated that 37% of the SDSs examined accurately identified health effects data, 76% provided complete and correct first aid procedures, 47% accurately identified proper personal protective equipment, and 47% correctly noted all relevant occupational exposure limits. Only 11% of the SDSs were accurate in all four information areas, but more (51%) were judged accurate, or considered to include both accurate and partially accurate information, than were judged inaccurate (10%). The study also concluded that the more recent SDSs examined (those prepared between 1988 and 1990) appeared to be more accurate than those prepared earlier.

This belief that some SDSs are not complete and correct was corroborated by an examination of SDSs for lead and ethylene glycol ethers (Paul and Kurtz, 1994). Although these substances are known reproductive and developmental toxicants, researchers found that 421 of 678 SDSs examined (62%) made no mention of effects on the reproductive system. OSHA also commissioned a study, completed in 1999, focusing specifically on the accuracy of first aid information provided on SDSs (Lexington Group, 1999). A total of 56 SDSs for seven chemicals were examined. First aid information on the SDSs was compared with information from established references. The researchers reported that nearly all of the SDSs reviewed had at least minor inaccuracies.

A standardized format does not directly address the concerns that have been raised regarding the accuracy of information present on SDSs. However, standardization would improve the accuracy of chemical hazard information indirectly. With consistent presentation of information, the task of reviewing SDSs and labels to assure accuracy would be simplified. Individuals preparing and reviewing these documents should find it easier to identify any missing elements, and compare information presented on an SDS to reference sources and other SDSs. OSHA enforcement personnel would be able to more efficiently examine SDSs when conducting inspections. The detailed entries proposed for the SDS are particularly noteworthy in this regard. The sub-headings would provide an organized and detailed list of pertinent information to be included under the headings on the SDS. For example, while the HCS currently requires physical and chemical characteristics of a hazardous chemical to be included on the SDS, the proposed rule would provide a list of 18 properties for Section 9 of the SDS. The party preparing the SDS would either include the relevant information for these entries, or indicate that the information is not available or not applicable. This approach would provide both a reminder to the party preparing the SDS regarding the information required, and a convenient means of reviewing the section to ensure that relevant information is included and is accurate.

OSHA anticipates that the classification criteria included in the proposed rule would also improve the accuracy and precision of information on SDSs. The detailed criteria provided would direct evaluators to the appropriate classification for a chemical. For example, while directing the evaluator to use expert judgment in taking all existing hazard information into account, the criteria for serious eye damage/eye irritation is tied to specific results found in animal testing. In addition, assignment to hazard categories would lead to provision of detailed information that would be specific to the degree of hazard presented by the chemical.

Classification of hazards would also play an important role in increasing the usefulness of SDSs under the proposed rule. By including the classification of the substance on the SDS, employers would be in a much better position to compare the hazards of different chemicals. Hazard categories generally give an indication of the severity of the hazard associated with a chemical. For example, all other things being equal, a chemical classified for skin corrosion/

irritation in category 1 as a skin corrosive would be more hazardous than a chemical classified in category 2 as a skin irritant. If chemicals are classified into hazard categories, this information can be used to simplify the process of comparing chemicals. As noted previously, employers use SDSs as a means of comparing chemical hazards to select less hazardous alternatives. Thus it is reasonable to believe that the proposed rule would result in more effective use of the SDS as an instrument for identifying less hazardous substitutes for hazardous chemicals.

Support for a standard SDS format has been expressed consistently by a variety of stakeholders for a long period of time. The development of an industry consensus standard for preparation of SDSs, ANSI Z400.1, in itself, shows a desire on the part of many parties for a consistent approach to SDSs. As noted previously, ANSI Z400.1 was updated in 2004 to include the same sections and sequence as the proposed rule. Responses to OSHA's Request for Information in the **Federal Register** of May 17, 1990 (55 FR 20580) indicated widespread support for a standard SDS format, with many specifically supporting the ANSI format.

In its report of its evaluation of the HCS, the GAO included several recommendations. Among these was a recommendation that OSHA clearly specify the language and presentation of information on SDSs (GAO, 1991). In addition, the report of the National Advisory Committee for Occupational Safety and Health Review of Hazard Communication (September 12, 1996) indicated that during the public presentations and workgroup discussions, there was general agreement that a uniform format should be encouraged and most workgroup members agreed that OSHA should endorse use of the ANSI Z400.1 format (NACOSH, 1996).

Comments received in response to the ANPR also indicate widespread support for a standard format for SDS (*e.g.,* Document ID #s 0054, 0064, 0030, 0124, and 0158). The American Foundry Society, for example, said that consistent SDSs make it easier for users to find information and compare products (Document ID #0158). The Jefferson County Local Emergency Planning Committee maintained that critical information can be missed by first responders due to the current lack of consistency in presentation of information on SDSs, stating: ''It is not overreaching for us to say that lives will be saved through harmonization'' (Document ID #0037). Based on the information in the record, OSHA thus believes not only that the proposed standardized SDS format would improve the quality of information provided on SDSs, but that stakeholders generally prefer a standardized format.

Training

Along with labels on containers and SDSs, employee training is one of three core components of a comprehensive hazard communication program. Training is needed to explain and reinforce the information presented on labels and SDSs, to ensure that employees understand the chemical hazards in their workplace and are aware of the protective measures to follow. The proposed rule includes a relatively minor revision to the HCS training requirements, intended to ensure that labels and SDSs are adequately explained to employees (see Section XV for a detailed discussion of the proposed requirements). In light of the evidence previously discussed relating to label and SDS comprehension, the importance of training should not be underestimated.

Training is necessary to ensure that employees understand the standardized heading and sequence of information on SDSs. Likewise, employees must be able to understand the meaning of the proposed standardized label elements in order for them to be effective. In certain instances, label elements already appear to be fairly well understood. For example, ''Danger'' already appears to be generally recognized to represent a higher degree of hazard than ''Warning''. Other label elements, particularly some pictograms, are less well understood. This finding is not surprising given the limited amount of exposure that most of the population has had to these pictograms.

A relatively high level of understanding is generally recommended for pictograms. For example, ANSI Z535.3, the American National Standard that addresses criteria for safety symbols, contains a test method for determining the effectiveness of a pictogram. The criterion for success is 85% correct responses, with no more than 5% critical confusion. (Critical confusion refers to when the message conveyed is the opposite of the intended message.) A score below 85% does not mean the pictogram should not be used, but rather that it should not be used without some additional element, such as written text. The International Standards Organization has similar criteria in ISO 9186, Procedures for the Development and Testing of Public Information Symbols. This standard recommends testing methodologies to evaluate symbols intended to be used internationally. It sets a somewhat lower level of acceptability (66%) than the ANSI standard.

While initial understanding of some pictograms may not be satisfactory, research shows that training can improve comprehension. In one study, Wogalter *et al.* tested how well undergraduate subjects comprehended a set of 40 pharmaceutical and industrial safety pictorials before and after training (Wogalter *et al.,* 1997c). Training led to a significant increase in pictorial comprehension. The improvement was greatest for the most complex symbols. Training was equally effective whether the subject was given a simple printed label (*e.g.,* ''Danger, cancer-causing substance'') or a label with additional explanatory text.

Lesch conducted a similar study, testing how well workers recognized a set of 31 chemical and physical safety symbols before and after training (Lesch, 2002; 2003). Training significantly improved comprehension, which remained higher up to 8 weeks later. As in the Wogalter *et al.* study described above, Lesch found little difference in performance whether training took the form of a written label assigned to each symbol, a label plus explanatory text, or an accident scenario. Training also improved response speed.

In a survey of South African workers, London examined the impact of brief training on the meaning of symbols and hazard phrases (London, 2003). Here, the author found no statistical difference in comprehensibility of four familiar hazard symbols, but did find that training improved comprehension of one symbol (the proposed health hazard symbol), and it also reduced the overall incidence of critical confusion. This study also found that workers with previous workplace training were more likely to understand label text and some pictograms, and were better able to identify the active ingredient. A similar result was reported by Banda and Sichilongo in their evaluation of GHS labels in Zambia. The authors found that ''correct responses to label elements were not a result of social class and/or age but appeared to be influenced by extent of duration of exposure either through specialized training or acquaintance'' (Banda and Sichilongo, 2006). Recognizing that symbols are the items most often recalled from a label, London advised a strong emphasis on training for GHS symbols, particularly the ''flame over circle'' and ''flame'' symbols—which were reported to be easily confused—and symbols that may

generate critical confusion (London, 2003).

These reports serve to reinforce OSHA's longstanding belief that labels, SDSs, and training are complementary parts of a comprehensive hazard communication program—each element reinforces the knowledge necessary for effective protection of employees. The need for training to ensure comprehension of hazard information is widely recognized. Annex A of ANSI Z535.2 (the American National Standard for Environmental and Facility Safety Signs), for example, recommends training on the meaning of standard safety symbols and signal words, and ANSI Z535.4 contains similar guidance.

It is a longstanding Agency position that employees have the ''right to know'' and understand the hazards of chemicals they are exposed to in the workplace (FR 53:29826; FR 59:6126). This knowledge is needed in order to take the precautions necessary for safe handling and use, to recognize adverse health effects associated with chemical exposure, and to respond appropriately in emergency situations.

Equally important in terms of employee protection is that employers have access to chemical hazard information as well. Chemical information is the foundation of workplace chemical safety programs—without it, sound management of chemicals cannot occur. By ensuring that emergency responders, physicians, nurses, industrial hygienists, safety engineers and other professionals have the information they need to devise protections, the HCS serves to reduce the likelihood of chemical source illnesses and injuries. Selection of appropriate engineering controls, work practices, and personal protective equipment is predicated knowing the chemicals that are present, the form they are present in, and their hazardous properties.

OSHA believes that the proposed requirements would improve the quality and consistency of the chemical hazard information provided to employers and employees. A combination of label elements—signal word, hazard statement(s), pictogram(s), and precautionary statement(s)—is expected to make label warnings more noticeable, easier to understand, and better communicate hazard and precautionary information. Standardized headings and a consistent order of information are anticipated to make it easier for users to find information on SDSs, improve their accuracy, and better enable users to compare the relative hazards of different substances. Along with effective training in the context of a comprehensive chemical hazard communication program, these revisions would serve to more adequately inform employees of chemical hazards, and lead to better protections in the workplace.

OSHA's preliminary determination to modify the HCS is based on its assessment of the potential to improve employee safety and health. While enhancing protection of employees is the Agency's objective in this rulemaking, implementation of the GHS is also anticipated to provide other benefits. As indicated in Section IV, modification of the HCS is expected to promote a range of objectives.

Many countries do not currently have regulatory requirements addressing chemical hazard communication. Those countries that do not have the resources to develop a regulatory system can use the GHS as a basis for establishing such requirements. Implementation in these countries will thus lead to dissemination of information about chemical hazards and protective measures to individuals who would not otherwise be afforded this benefit.

Transmittal of information provides a basis for the sound management of chemicals, which is beneficial not only to the country where it is practiced, but to neighboring countries as well. For example, uncontrolled releases of hazardous chemicals are not confined by national borders. A coordinated and harmonized approach to developing and providing chemical hazard information is beneficial to all.

The United Nations Institute for Training and Research (UNITAR) and the International Labor Organization (ILO) have initiated a program to support GHS implementation. The program provides assistance regarding development of national GHS implementation strategies, legislation, and other topics. UNITAR is supporting national GHS implementation and capacity building projects in Cambodia, Indonesia, Laos, Nigeria, Senegal, Slovenia, Thailand, the Gambia, and the Philippines, and has supported meetings, workshops, and regional activities as well. Over 80 countries have requested assistance from UNITAR/ILO, indicating widespread interest in GHS adoption throughout the world.

Adoption of the GHS is also expected to reduce the amount of testing performed to identify hazardous properties of chemicals. The HCS does not currently require testing of chemicals, and will not require testing with adoption of the GHS. However, testing is often performed to determine how a chemical will be classified under the various systems currently in place. By harmonizing definitions of hazards, such testing would be minimized, saving unnecessary use of test animals and associated costs.

Implementation of the GHS is expected to lessen the regulatory burden associated with classification of chemical hazards and labeling of hazardous chemicals. In the U.S., regulatory authorities with jurisdiction over the workplace, environment, consumer and transport sectors (*i.e.,* OSHA, EPA, CPSC, and DOT) are not currently harmonized with regard to definitions of hazards and other requirements related to classification and labeling of chemicals. Widespread adoption of the GHS among the agencies would simplify the process of classifying chemicals and developing labels. For example, most chemicals are produced in a workplace and shipped elsewhere. As a result, manufacturers must comply with at least two sets of requirements that are currently not harmonized. Adoption of the GHS would simplify this process. Thus every chemical manufacturer would be likely to experience some benefits from harmonization, even if they are not involved in international trade.

For those who are involved in international trade in hazardous chemicals, the expected benefits would be even greater. As discussed in Section III, different countries have established requirements for chemical hazard classification, labeling, and SDSs that vary with regard to the scope of chemicals covered, definitions of hazards, the specificity of requirements, and the use of symbols and pictograms. Tracking the requirements of different regulatory authorities and developing different labels and SDSs is a burden for all manufacturers, importers, distributors, and transporters. Chemical manufacturers that do not have the resources to identify and comply with the requirements of regulatory authorities in different countries are precluded from engaging in trade with those countries. Small businesses are particularly affected. Implementation of the GHS would alleviate this burden and simplify the provision of chemical hazard information in international commerce.

VI. Pertinent Legal Authority

The primary purpose of the Occupational Safety and Health Act (the ''OSH Act'' or ''Act'') (29 U.S.C. 651 *et seq.*) is to assure, so far as possible, safe and healthful working conditions for every American employee over the period of his or her working lifetime. One means prescribed by the Congress

to achieve this goal is the mandate given to, and the authority vested in, the Secretary of Labor to ''promulgate, modify, or revoke'' mandatory occupational safety and health standards. OSH Act § 6(b), 29 U.S.C. 655(b).

An occupational safety and health standard is defined under the Act as:

> [A] standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide a safe or healthful employment and places of employment.

OSH Act § 3(8), 29 U.S.C. 652(8). The Supreme Court has interpreted this provision as requiring OSHA to determine, before promulgating a permanent standard under section 6(b) of the Act, that the standard is reasonably necessary and appropriate to remedy a significant risk of material health impairment. *Industrial Union Dep't* v. *American Petroleum Institute,* 448 U.S. 607, 642 (1980) (''*Benzene''*). This ''significant risk'' determination constitutes a finding that, absent the change in practices mandated by the standard, the workplaces in question would be ''unsafe'' in the sense that employees would be threatened with a significant risk of harm. *Id.*

OSHA's Hazard Communication Standard (''HCS'') is a health standard promulgated under the authority of sections 6(b)(5) and 6(b)(7) of the Act. *Associated Builders & Contractors, Inc.* v. *Brock,* 862 F.2d 63, 67–68 (3d Cir. 1988); *United Steelworkers of America* v. *Auchter,* 763 F.2d 728, 738 (3d Cir. 1985); *United Steelworkers of America* v. *Auchter,* 819 F.2d 1263, 1267 (3d Cir. 1987). Authority for the HCS may also be found in section 8(c) and 8(g) of the Act. Section 8(c)(1) of the Act empowers the Secretary to require employers to make, keep, and preserve records regarding activities related to the Act and to make such records available to the Secretary. 29 U.S.C. 657(c)(1). Section 8(g)(2) of the Act empowers the Secretary to ''prescribe such rules and regulations as (she) may deem necessary to carry out (her) responsibilities under this Act * * *'' 29 U.S.C. 657(g)(2).

Section 6(b)(5) provides that:

> The Secretary, in promulgating standards dealing with toxic materials, or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

29 U.S.C. 655(b)(5). Thus, once OSHA determines that a significant risk due to a health hazard is present and that such risk can be reduced or eliminated by a proposed standard, section 6(b)(5) requires it to issue the standard, based on the best available evidence, that ''most adequately assures'' employee protection, subject only to feasibility considerations. As the Supreme Court has explained, in passing section 6(b)(5), ''Congress * * * place[d] worker health above all other considerations save those making attainment of this benefit unachievable.'' *American Textile Manufacturers Institute, Inc.* v. *Donovan,* 452 U.S. 490, 509 (1981) (''*Cotton Dust*''). Where, however, OSHA is confronted with two feasible methods of reducing risk to the appropriate level, OSHA must chose the cheaper method. *Id.* at 513 n.32; *International Union, UAW* v. *OSHA,* 37 F.3d 665, 668 (D.C. Cir. 1994).

In addition, section 6(b)(7) of the Act provides in part that:

> Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate medical treatment, and proper conditions and precautions of safe use or exposure.

29 U.S.C. 655(b)(7). Section 6(b)(7)'s labeling and employee warning requirements provide basic protections for employees in the absence of specific permissible exposure limits, particularly by providing employers and employees with information necessary to design work processes that protect employees against exposure to hazardous chemicals in the first instance. The Supreme Court has recognized such protective measures may be imposed in workplaces where chemical exposure levels are below that for which OSHA has found a significant risk. *Benzene,* 448 U.S. at 657–58 & n.66. In *Benzene,* the Court relied on § 6(b)(7) to uphold the imposition of exposure and medical monitoring requirements at exposures to benzene below the permissible exposure limit. *Id.* These requirements serve as a ''backstop,'' the Court said, allowing OSHA to check the validity of its assumptions in developing the PEL and employers to remove workers before they suffered any permanent damage. *Id.* at 657–58.

In making the determinations required by the Act, OSHA's conclusions must be ''supported by substantial evidence in the record considered as a whole.'' OSH Act § 6(f), 29 U.S.C. 655(f). OSHA must use the ''best available evidence,'' which includes ''the latest scientific data in the field''; ''research, demonstrations, experiments, and such other information as may be appropriate''; and ''experience gained under this and other health and safety laws.'' OSH Act § 6(b)(5), 29 U.S.C. 655(b)(5). The Supreme Court has held that OSHA is not required to support its finding of significant risk ''with anything approaching scientific certainty,'' and that the determination of whether a particular risk is '' 'significant' will be based largely on policy considerations.'' *Benzene,* 448 U.S. at 655–56 & n.62.

The OSH Act allows the Secretary to ''modify'' and ''revoke'' existing occupational safety or health standards. OSH Act § 6(b), 29 U.S.C. 655(b). In passing the Act, Congress recognized that OSHA should revise and replace its standards as ''new knowledge and techniques are developed.'' S. Rep. 91–1282 at 6 (1970). The Supreme Court has observed that administrative agencies ''do not establish rules of conduct to last forever, and * * * must be given ample latitude to adapt their rules and policies to the demands of changing circumstances.'' *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Automobile Ins. Co.,* 463 U.S. 29, 42 (1983) (internal quotation marks and citations omitted).

A. Significant Risk. Most OSHA health standards protect employees by imposing requirements when employees are exposed to a concentration of a hazardous substance that OSHA has found to create a significant risk of material health impairment. Thus, in making the significant risk determination in these cases, OSHA is concerned with measuring the exposure an employee may be expected to incur when dealing with these substances to determine the level at which a significant risk arises.

OSHA took a different approach to its significant risk determinations in promulgating the HCS in 1983 and revising it in 1994. Rather than attempting to assess the exposure—and therefore the risk—associated with the use of each hazardous chemical in each industry to determine if that chemical posed a significant risk in that industry,

OSHA took a more general approach. It relied on NIOSH data showing that about 25 million or about 25% of American employees were potentially exposed to one or more of 8,000 NIOSH-identified chemical hazards and that for the years 1977 and 1978, more than 174,000 illnesses were likely caused by exposure to hazardous chemicals. 48 FR 53282. It then noted the consensus evident in the record among labor, industry, health professionals, and government that an ''effective federal standard requiring employers to identify workplace hazards, communicate hazard information to employees, and train employees in recognizing and avoiding those hazards'' was necessary to protect employee health. 48 FR 53283.

Thus, OSHA found that because

> inadequate communication about serious chemical hazards endangers workers and that the practices required by this standard are necessary or appropriate to the elimination or mitigation of these hazards, the Secretary is hereby able to make the threshold ''significant risk'' determination that is an essential attribute of all permanent standards.

48 FR 53321. The U.S. Court of Appeals for the Third Circuit has on several occasions upheld this determination of significant risk as sufficient to justify the HCS under OSH Act § 6(b). *See Associated Builders & Contractors,* 862 F.2d at 67 (discussing the history of its review of the issue).

A characteristic of hazard communication that OSHA confronted in adopting the HCS is that information about the hazards associated with a particular chemical, and the exposures associated with its use, are not uniformly distributed across industry. That is, chemical manufacturers and importers tend to have greater knowledge and scientific expertise with respect to the composition of the chemicals they make or import. *See* 48 FR 53306, 53322. Therefore, they are usually in the best position to assess the inherent hazards associated with them. *Id.* However, it is the downstream users and their employees who tend to have the best information about the means and methods of exposure, and are therefore usually in the best position to determine the risk arising from the use of the chemical in their workplaces. *See* 48 FR 53295–96, 53307; 59 FR 6132.

OSHA's approach in promulgating the HCS reflects this reality. It places the duty to ascertain and disclose chemical hazards on manufacturers and importers, so that downstream users can use this information to avoid harmful exposures to chemical hazards. But because manufacturers and importers will often have less information about the particular exposures of downstream users, their hazard assessment and communication obligations are imposed only for all normal conditions of use of their chemicals and foreseeable emergencies associated with those chemicals. 29 CFR 1910.1200(b)(2).

In previous rulemakings, OSHA rejected suggestions that these obligations should arise only where the downstream use creates a significant risk because it is difficult, if not impossible, for OSHA or manufacturers and importers to know where these risks might occur before the fact. 49 FR 53295–96; 59 FR 6132. Further, it is only by the provision of hazard information that downstream employers and employees can determine how to use the chemical so that exposure and risk may be minimized. *Id.* Thus, the HCS protects employees from significant risk by requiring communications about all chemicals that may present a hazard to employees, regardless of the exposure or risk levels any particular downstream user might actually experience. *Durez Div. of Occidental Chemical Corp* v. *OSHA,* 906 F.2d 1, 4 (D.C. Cir. 1990); *General Carbon Co.* v. *OSHRC,* 860 F.2d 479, 485 (D.C. Cir. 1988).

For these reasons, hazard communication—as opposed to risk communication—''most adequately assures'' employee protection from the significant risk of material impairment of health arising from the use of hazardous chemicals in the workplace for purposes of OSHA's authority under section 6(b)(5) of the Act. In addition, HCS is authorized under section 6(b)(7), which requires OSHA to prescribe ''labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure.'' As noted above, the *Benzene* case recognizes that the ''backstop'' provisions of section 6(b)(7) allow OSHA to impose information requirements even before the employee is exposed to the significant risk. In this way, the HCS assures that employers and employees have the information they need to avoid situations of exposure in the work place even before the employee is exposed to a hazardous chemical.

The current proposal makes no conceptual or theoretical change in this approach. It still imposes the same general requirements: Hazard identification, labeling, safety data sheets, a written hazard communication program, and employee training. OSHA's determination that inadequate communication about hazardous chemicals constitutes a significant risk supports the incorporation of the GHS into the HCS, just as it supported the promulgation of the original HCS and its subsequent modifications. Further, the data discussed in parts V and VII of this preamble show that the significant risk continues to exist even under the current standard. OSHA estimates that over 40 million employees are potentially exposed to hazardous chemicals. BLS data show that in 2007, there were approximately 54,000 illnesses related to hazardous chemical exposure and 125 chemically-related fatalities. These new statistics probably represent only a small portion of the illnesses experienced by exposed employees because many illnesses are not reported as being related to workplace exposures, due to long latency periods, and other factors. For all the reasons detailed in Section V, the agency believes that adoption of the GHS will improve communication of the hazards associated with the use of chemicals, and reduce significant risk.

B. Section 6(b)(7) Authority. With respect to labels and employee warnings, the last sentence of section 6(b)(7) provides that:

> The Secretary, in consultation with the Secretary of Health and Human Services, may by rule promulgated pursuant to section 553 of title 4, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

29 U.S.C. 655(b)(7).

OSHA has used the authority of section 6(b)(7) in the past to revise its standards. *See, e.g.,* Standards Improvement Project—Phase II, 70 FR 1112 (January 5, 2005); Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards, 63 FR 33450, 33458 (June 18, 1998). For example, it used this authority to revise the inorganic arsenic and coke oven emissions standards to eliminate the requirement of sputum cytology testing and to reduce the required frequency of mandatory chest x-rays from semi-annual to annual. 63 FR 33458. OSHA justified these changes on the grounds that studies reported after the promulgation of the relevant standards showed that sputum-cytology did not improve employee survival rates and the survival rates for semi-annual x-rays were not higher than annual exams. 63 FR 33458–59. In addition, OSHA has

used its section 6(b)(7) authority to authorize new respirator fit protocols under its respiratory protection standard. 69 FR 46986 (August 4, 2004); *see generally* 29 CFR 1910.134 App. A, Pt. II.

OSHA's proposal to revise the HCS fits well within the authority granted by the last sentence of § 6(b)(7). Adoption of GHS provisions would constitute a ''modification[]'' of the HCS regarding ''the use of labels or other forms of employee warning.'' For the reasons summarized above and explained more fully elsewhere in this preamble, OSHA believes that the adoption of GHS to be ''appropriate'' based on ''experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.'' The formulation of GHS may also be considered a ''technological development'' that has occurred since the promulgation of the original standard in 1983. GHS was negotiated and drafted through the involvement of labor, industry, and governmental agencies, and thus represents the collective experience and information on hazard communication gathered by the participants in these sectors over the last several decades. *See* Part III above and 71 FR 53618–19. Indeed, OSHA noted the possibility of a future internationally harmonized standard in the preamble accompanying the original rule. 48 FR 53287.

The last sentence of section 6(b)(7) also requires consultation with the Secretary of Health and Human Services. OSHA briefed NIOSH on this proposal as a part of the October 2008 OSHA–NIOSH Issues Exchange meeting, which was attended by NIOSH's Acting Director, and NIOSH expressed its support. OSHA has also briefed NIOSH on the GHS in previous Issues Exchange meetings. In addition, NIOSH has actively supported the GHS during its development and has been involved in the development of control banding, international chemical safety cards, and employee training for the GHS. NIOSH has submitted a comment supporting OSHA's proposal, (Ex. 2–46–1), and reviewed a draft of both this NPRM and the ANPR before it was published. NIOSH has stated that it

> supports OSHA in its proposal to update the HCS and to address the changes in hazard criteria, to include all 16 physical hazard criteria, and to adopt the specific labeling requirements and the safety data sheet (SDS) order of information in the Globally Harmonized System of Classification and Labelling of Chemicals.

(Document ID # 0082) These consultations coupled with OSHA's on-going relationship with NIOSH are more than sufficient to satisfy the requirement. For all the reasons set forth above, revision of the HCS through adoption of the GHS as proposed by OSHA is authorized by section 6(b)(7) of the OSH Act, 29 U.S.C. 655(b)(7).

C. Section 6(b)(5) Authority. OSHA also has authority to adopt the proposal under section 6(b)(5) of the Act, 29 U.S.C. § 655(b)(5). As noted above, section 6(b) explicitly allows OSHA to ''modify'' standards, and adoption of the GHS is justified because it ''most adequately assures'' employee protection for purposes of section 6(b)(5) for the reasons detailed in part V of this preamble. Section 6(b)(5) also requires a finding that the proposed standard is feasible, which means ''capable of being done, executed or effected.'' *Cotton Dust,* 452 U.S. at 508–09.

Feasibility has two aspects, economic and technological. *United Steelworkers of America* v. *Marshall,* 647 F.2d 1189, 1264 (D.C. Cir. 1981) (''*Lead I*''). A standard is technologically feasible if the protective measures it requires already exist, can be brought into existence with available technology, or can be created with technology that can reasonably be expected to be developed. *See Lead I,* 647 F.2d at 1272. A standard is economically feasible if industry can absorb or pass on the cost of compliance without threatening its longer term profitability or competitive structure. *See Cotton Dust,* 452 U.S. at 530 n.55; *Lead I,* 647 F.2d at 1265.

In addressing feasibility in the 1994 HCS revisions, OSHA found that:

> The feasibility question raised by the HCS is not difficult to resolve. This standard does not relate to activities on the frontiers of scientific knowledge; the requirements are not the sorts of obligations that approach the limits of feasibility. *Associated Builders & Contractors,* 862 F.2d at 68. The record on which the original and expanded HCS's were based did not contain credible evidence that the HCS would be technologically or economically infeasible for any industrial sector, *id.,* and there was substantial evidence of feasibility, 52 FR 31855–58.

59 FR 6133. OSHA has repeatedly found that the requirements of the HCS are technologically feasible. *See* 52 FR 31855–57; 59 FR 6133. While the GHS modifications to HCS impose more specific requirements for hazard classification, labeling, and safety data sheets, employers may use the same methods to meet these requirements as they are already utilizing to comply with the requirements of HCS.

The most important resource employers will need to comply with the GHS modifications to HCS is technical expertise in hazard classification and the communication of those hazards. OSHA found that such expertise was already available in promulgating the initial HCS rule in 1983. 48 FR 53296–99. OSHA believes that the availability of professionals with this expertise has only increased in the intervening time. At least one professional organization provides training in hazard communication to professionals and businesses. (Document ID #s 0021 and 0145.) Through OSHA's Alliance with the Society for Chemical Hazard Communication, training to small businesses in the requirements of hazard communication and information about the GHS modifications has been made available. *See http://www.osha.gov/dcsp/alliances/schc/schc.html.* NIOSH is preparing a program for employers to use in training their employees in the new labeling scheme. (Document ID # 0082.) OSHA received numerous comments in response to its September 12, 2006 ANPR discussing the professionals and tools (both manual and electronic) that employers have available to comply with current hazard communication requirements. (*See, e.g.,* Document ID #s 0042, 0046, 0050, 0053, 0072, 0077, 0015, 0024, 0026, 0036, 0038, 0107, 0108, 0116, 0123, 0128, 0141, 0144, 0145, 0154, 0155, and 0163.) The Agency has been engaged on several fronts to facilitate the transition from the current standard to the GHS modifications, if ultimately adopted. For instance, the United Nations Institute for Training and Research (UNITAR) is developing basic and more advanced training courses for the GHS, and OSHA has been involved with and committed resources to this effort. NIOSH's comment also discussed the development of the WHO/IPCS International Chemical Safety Cards, which includes the GHS pictograms and signal words. (Document ID # 0082.) OSHA believes that adopting the GHS modifications as proposed poses no technological feasibility issues.

Likewise, for the reasons more fully discussed in the Preliminary Regulatory Analysis, OSHA believes that there is nothing about the adoption of GHS that will pose economic feasibility issues. Again, OSHA has found that the implementation of HCS in the first instance would have no such effect. *See* 52 FR 31855–57; 59 FR 6133. Most commenters agreed that, once conversion to the new system is completed, compliance with the GHS-modified HCS will not be more expensive than compliance with the current HCS. (Document ID #s 0046, 0047, 0080, 0103, 0104, 0105, 0179,

0119, 0123, 0129, 0135, 0139, 0145, 0147, and 0163.) While industry will incur the cost of converting to the new system, OSHA does not believe that this cost is so substantial as to threaten long term profitability or the competitive structure of any industry.

Finally, OSHA is not proposing to ''delegate[e] power to an international body'' through the adoption of the GHS or justifying this proposal as a means to reduce ''potential barriers to international trade,'' as suggested in the comments. (Document ID #s 0065 and 0026). OSHA recognizes, however, that there are potential benefits to international trade by adopting the GHS, and these are discussed in section VII of this preamble, OSHA is proposing to comply with the OSH Act's mandate to assure as far as possible safe and healthful working conditions in this country by incorporating the GHS's improved hazard communications requirements into the HCS through the process authorized by section 6 of the OSH Act. Adoption of the GHS modifications into the HCS would not place any new obligations on OSHA to comply with the requirements of any foreign or international body.

VII. Preliminary Economic Analysis and Initial Regulatory Flexibility Screening Analysis

A. Introduction and Summary

Introduction

OSHA is required by the Occupational Safety and Health (OSH) Act of 1970 to ensure and demonstrate that standards promulgated under the Act are reasonably necessary and appropriate, as well as technologically and economically feasible. Executive Order 12866, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act also require OSHA to estimate the costs, assess the benefits, and analyze the impacts of certain rules that the Agency promulgates.

Accordingly, OSHA has prepared this Preliminary Economic Analysis (PEA), including an Initial Regulatory Flexibility Screening Analysis (IRFSA), for the proposed modifications to the Hazard Communication Standard (HCS). The OSHA PEA is based largely on research conducted for this purpose by Policy, Planning, and Evaluation, Inc. (PP&E), as presented in their report, ''Data and Analysis in Support of an Economic Analysis of Proposed Changes to the OSHA Hazard Communication Standard,'' prepared under contract to OSHA. The PP&E report is available in the public docket for this rulemaking, OSHA–H022K–2006–0062, through *www.regulations.gov.*

Need for Regulation

Employees in work environments covered by the HCS are exposed to a variety of significant hazards that can and do cause serious injury and death. The HCS serves to assure that both employers and employees are provided needed information about chemical hazards that was not provided by markets in the absence of such a standard. The HCS also facilitates interstate commerce by promoting consistency among Federal and individual State requirements.

The proposed changes would create a uniformity standard for the presentation of risk information and, as such, would serve to improve the efficiency and effectiveness of the existing hazard communication system in the U.S., and to reduce unnecessary barriers to trade. Hazard communication is currently addressed by many different international, national, and State authorities. As described in Section V of the preamble, these existing requirements are not always consistent and often contain different definitions of hazards and varying provisions for what information is required on labels and safety data sheets. Complying with these different rules results in increased costs for employers with hazardous chemicals in their workplace and for chemical manufacturers, distributors, and transporters involved in international trade. In addition to these effects on businesses, the different existing requirements result in workplaces receiving chemicals with varying information, with potential adverse impacts on the safety and health of employees. The proposed revisions to the OSHA HCS would standardize the hazard communication requirements for products used in U.S. workplaces, and thus provide employees with uniform and consistent hazard communication information. Secondarily, because these proposed revisions would harmonize the U.S. system with international norms, they would facilitate international trade.

Affected Industries

The proposal would affect employers and employees in many different industries across the economy. Based on the PP&E report, OSHA estimates in Table VII–2 that the HCS covers over five million workplaces in which employees are potentially exposed to hazardous chemicals.

For establishments with employees whose exposures to hazardous chemicals results from their use of the chemical products, the proposed revisions to the HCS would generally involve minor effects, such as familiarization with new warning labels. For establishments producing hazardous chemicals, which are generally part of the chemical manufacturing industry, the revisions to the standard would involve reclassifying chemicals in accordance with the new classification system and revising safety data sheets (SDSs) and labels associated with hazardous chemicals. OSHA has preliminarily judged that SDSs for imported chemicals would normally be produced in the country of origin, and thus would not represent expenses for importers. OSHA welcomes comment on this judgment.

Benefits, Net Benefits, and Cost-Effectiveness

There is ample evidence of the substantial risks of chemical exposure in the workplace. In 2007, according to the Bureau of Labor Statistics, employees suffered an estimated 55,400 illnesses attributable to chemical exposures (BLS, 2008), and some 17,340 chemical-source injuries and illnesses involved days away from work (BLS, 2009). However, as noted in the preamble to the HCS in 1983, BLS estimates probably only reflect a small percentage of occupational illnesses (48 FR 53284) because most occupational illnesses are not reported. The principal reasons are that they are not recognized as being related to workplace exposures and are subject to long latency periods between exposure and the manifestation of disease. The key study of the issue of the number of fatalities from chronic illnesses, not recorded in any way by BLS, is Leigh *et al.,* 1997. That study found that in 1992, there were from 46,900 to 73,700 fatalities from chronic illnesses related to occupational exposures to chemicals. This critical category dwarfs all acute injuries and illnesses due to chemicals recorded by BLS.[1]

Section V of the preamble describes some of the incidents that may have been related to the non-standardized approach to SDSs in the current HCS,

[1] A more recent study prepared by the University of California Centers for Occupational and Environmental Health, and commissioned by the California Environmental Protection Agency, suggests that fatalities from chronic illnesses remain an important problem (University of California COEH, 2008, p. 18). That study estimated that, in 2004, more than 200,000 workers, in California alone, were diagnosed with serious chronic diseases (encompassing cancer, COPD, asthma, pneumoconiosis, chronic renal failure, and Parkinson's disease) attributable to chemical exposures in the workplace, and that an additional 4,400 workers in California died during that year from chemical exposures in the workplace. Underlying studies are to appear in forthcoming publications.

including xylene exposure at a hospital when an employee was unable to find critical information on an SDS in an emergency spill situation (Hanson, 2004). As a result, twelve employees required emergency room treatment. Another example is the explosion at a manufacturing plant in Corbin, KY, which resulted in the death of 7 workers and injuries to another 37 workers. A Federal investigation into the explosion concluded that the cause was the inability to effectively identify and respond to the inherent explosive hazards of phenolic resin and specifically referenced the MSDS for phenolic resin dust (U.S. Chemical Safety and Hazard Investigation Board, February 2005). Were the information on SDSs more uniformly formatted and comprehensible, as required under the proposed modifications to HCS, incidents such as those described above would be less likely to occur.

In general, the proposed modifications to the HCS are expected to result in increased safety and health for the affected employees and to reduce the numbers of accidents, fatalities, injuries, and illnesses associated with exposures to hazardous chemicals.

It is difficult to quantify precisely how many injuries, illnesses, and fatalities would be prevented due to the proposed revisions to the HCS. The benefits associated with the existing HCS may indirectly help provide a general sense of the potential magnitude of the benefits of the proposed revisions to the HCS. OSHA preliminarily estimates that if the proposed rule could capture one percent of the benefits estimated for the original 1983 and 1987 HCS rules, the proposed revisions would result in the prevention of 318 non-lost-workday injuries and illnesses, 203 lost-workday injuries and illnesses, 64 chronic illnesses, and 43 fatalities annually. The monetized value of the corresponding reduction in occupational risks among the affected employees is an estimated $266 million on an annualized basis.

The harmonization of hazard classifications, safety data sheet formats, and warning labels for affected chemicals and products would also involve substantial savings to businesses. Fewer different SDSs would have to be produced for affected chemicals, and many SDSs would be able to be produced at lower cost due to harmonization and standardization. The benefits represented by these cost reductions would primarily affect businesses involved in chemical manufacturing. In addition, businesses that purchase or use hazardous chemicals can expect reductions in operating costs as a result of the promulgation and implementation of the proposed modifications.

PP&E conducted extensive research on the processes that companies use to classify chemical hazards, to develop SDSs and labels, and to handle, store, and use hazardous chemicals. PP&E evaluated how these processes would be affected by the proposed revisions to the HCS and analyzed the potential savings that would be realized as a result of adopting these revisions. Based on PP&E's research, OSHA has concluded that the annual cost savings for these companies would be an estimated $585 million.

As an additional benefit, the modification of the HCS by the inclusion of the globally harmonized system (GHS) of classification and labelling of chemicals would be expected to facilitate international trade, increasing competition, increasing export opportunities for U.S. businesses, reducing costs for imported products, and generally expanding the selection of chemicals and products available to U.S. businesses and consumers. As a result of both the direct savings resulting from harmonization and the increased competitiveness, prices for the affected chemicals and products, and the corresponding goods and services using them, would be lowered.

The proposed revisions may also result in reductions in the costs associated with providing training for employees as required by the existing OSHA HCS.

Finally, the proposed GHS modifications to the OSHA HCS would meet the international goals for adoption and implementation of the GHS that were supported by the U.S. government. Implementing GHS in U.S. Federal laws and policies through appropriate legislative and regulatory action was anticipated by the U.S. support of international mandates regarding the GHS in the Intergovernmental Forum on Chemical Safety, the World Summit on Sustainable Development, and the United Nations. It is also consistent with the established goals of the Strategic Approach to International Chemical Management that the U.S. helped to craft (*see http://www.chem.unep.ch/saicm/*).

Table VII–1 provides a summary of the costs and benefits of the proposed modifications to the OSHA HCS, and it shows the net benefits of the modifications to the standard, which are estimated to be $754 million annually. Because compliance with the proposed standard would result in cost savings that exceed costs, OSHA has not provided estimates of costs per life saved or other metrics of cost-effectiveness. However, it should be noted that the estimated benefits exceed costs by a factor of eight.

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Table VII-1

Net Benefits

The point estimates below do not reflect the uncertainties described throughout the analysis. While OSHA is reluctant to provide quantified ranges, OSHA recognizes that these estimates are uncertain and invites comments on the estimates. OSHA provides a Sensitivity Analysis on these estimates in the final section of the PEA.

Annualized Costs	
Reclassification of Chemical Hazards and Revision of SDSs and Labels	$11 million
Employee Training	$44 million
Management Familiarization and Other Costs	$42 million
Total Annualized Costs:	$97 million
Annual Benefits	
Number of Non-lost-workday Injuries and Illnesses Prevented	318 (159-1,590)
Number of Lost Workday Injuries and Illnesses Prevented	203 (101-1,015)
Number of Chronic Injuries Prevented	64 (32-302)
Number of Fatalities Prevented	43 (22-215)
Monetized Benefits of Reduction in Safety and Health Risks	$266 ($133-$1,318) million
Cost Reductions and Productivity Gains	$585 million
Reductions in non-tariff trade barriers	unquantified
OSHA standards that are consistent with international standards, consensus standards, and standards of other federal regulatory agencies	unquantified
Contribution towards achieving international goals supported by the U.S. government	unquantified
Total Annual Monetized Benefits:	$851 ($738-$1,903) million
Net Annual Monetized Benefits (Benefits Minus Costs):	$754 ($641-1,806) million

Note: Costs and benefits are expressed in 2007 dollars.

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Compliance Costs

The estimated compliance costs for the proposed revisions to the HCS represent the additional costs necessary for employers to achieve full compliance. They do not include costs associated with current compliance that

has already been achieved with regard to the new requirements; nor do they include costs necessary to achieve compliance with existing requirements, to the extent that some employers may currently not be fully complying with applicable regulatory requirements.

The costs associated with compliance with the proposed revisions to the HCS would generally be incurred by the affected industries as one-time transition costs over the phase-in period of three years. Aside from the transition costs, the ongoing annual compliance costs associated with the proposed revisions to the HCS generally are expected to be the same or lower than under the existing standard.

The compliance costs are expressed as an annualized cost for purposes of assessing the cost-effectiveness of the proposed revisions, in order to be able to compare the economic impact of the rulemaking with other regulatory actions, and to be able to add and track Federal regulatory compliance costs and economic impacts in a consistent manner. Annualized costs also represent a better measure for assessing the longer-term potential impacts of the rulemaking. The annualized cost was calculated by annualizing the one-time costs over a period of 20 years and applying a discount rate of 7 percent, as recommended by the Office of Management and Budget.

The total annualized cost of compliance with the proposed standard is estimated to be about $97 million. The major cost elements associated with the revisions to the standard include the classification of chemical hazards in accordance with the GHS criteria and the corresponding revision of safety data sheets and labels to meet new format and content requirements ($11 million); training for employees to become familiar with new warning symbols and the revised safety data sheet format ($44 million); and management familiarization and other management-related costs as may be necessary ($42 million).

Economic Impacts

To assess the nature and magnitude of the economic impacts associated with compliance with the proposed rule, OSHA developed quantitative estimates of the potential economic impact of the new requirements on entities in each of the affected industry sectors. The estimated compliance costs were compared with industry revenues and profits to provide an assessment of the economic feasibility of complying with the revised standard and an evaluation of the potential economic impacts.

Only the compliance costs were considered for purposes of assessing the potential economic impacts and economic feasibility of the proposed revisions. As described in section D of this PEA, the overall economic impacts associated with this rulemaking are expected to result in significant net benefits to employers, employees, and the economy generally.

As described in greater detail in section G of this PEA, the costs of compliance with the proposed rulemaking are not large in relation to the corresponding annual financial flows associated with each of the affected industry sectors. The estimated costs of compliance represent about 0.0004 percent of revenues and about 0.007 percent of profits, on average, across all entities; compliance costs do not represent more than 0.02 percent of revenues or more than 0.3 percent of profits in any individual affected industry sector.

The economic impact of achieving compliance with the proposal, without considering the associated benefits, is most likely to consist of an extremely small increase in prices of about 0.0004 percent, on average, for affected hazardous chemicals. It is highly unlikely that a price increase of this magnitude would significantly alter the types or amounts of goods and services demanded by the public or any other affected customers or intermediaries. If the compliance costs of the proposal can be substantially recouped with a minimal increase in prices, there may be little or no effect on profits.

In general, for most establishments, it would be very unlikely that none of the compliance costs could be passed along in the form of increased prices. In the event that a price increase of 0.0004 percent were not possible, profits in the affected industries would be reduced by an average of about 0.007 percent.

Given the minimal potential impact on prices or profits in the affected industries, OSHA has preliminarily concluded that compliance with the requirements of the proposed rulemaking would be economically feasible in every affected industry sector.

In addition, based on an analysis of the costs and economic impacts associated with this rulemaking, OSHA preliminarily concludes that the effect of the proposed standard on employment, wages, and economic growth for the United States would be negligible. The effect on international trade is likely to be beneficial and similar to the effect of a small reduction in non-tariff trade barriers.

Initial Regulatory Flexibility Screening Analysis

OSHA has analyzed the potential impact of the proposed rule on small entities, and has prepared an Initial Regulatory Flexibility Screening Analysis (IRFSA) in conjunction with this rulemaking to describe the potential effects on small entities. The IRFSA is included as a part of this PEA in section H.

As a result of the analysis of the potential impact on small entities, OSHA concludes and certifies that the rulemaking would not have a significant impact on a substantial number of small entities. Therefore, an Initial Regulatory Flexibility Analysis (IRFA) is not required for this rulemaking. Nevertheless, OSHA has voluntarily provided the elements of the IRFA as part of the IRFSA presented in Section H. In proceeding with this rulemaking, OSHA will fulfill its requirements under the Regulatory Flexibility Act and under the Small Business Regulatory Enforcement Fairness Act, as applicable, to ensure that no unnecessary burdens are imposed on small businesses.

The remainder of this PEA includes the following sections:

B. Need for Regulation;
C. Profile of Affected Industries;
D. Benefits, Net Benefits, and Cost-Effectiveness;
E. Technological Feasibility;
F. Costs of Compliance;
G. Economic Feasibility and Impacts;
H. Initial Regulatory Flexibility Screening Analysis;
I. Environmental Impacts;
J. Unfunded Mandates Reform Act Analysis;
K. Sensitivity Analysis.

B. Market Failure and the Need for Regulation

Employees in work environments addressed by the HCS are exposed to a variety of significant hazards associated with chemicals used in the workplace that can and do cause serious injury and death. OSHA's HCS was designed to assure that employers and employees are provided the information they need about the chemical hazards in chemical products both to make informed purchases and to provide for safe use. In the existing HCS, OSHA developed a set of requirements for chemical products, to include mandatory classification, labeling, and detailed information provision (in safety data sheets). OSHA believes that the improvements in the proposed rule would make the hazard communication system more worker-protective and more efficient and effective. In addition, the improvements would have the effect of harmonizing

hazard communication to facilitate international trade—replacing a plethora of national rules with a single international system.

The proposed standard, through conformance with GHS (as explained in Section IV of the preamble), contains a number of changes to improve the performance of the U.S. hazard communication system:

- Revised criteria for more consistent classification of chemical hazards;
- Standardized signal words, pictograms, hazard statements, and precautionary statements on labels; and
- A standardized format for SDSs.

In short, GHS is a ''uniformity standard'' for the presentation of hazard information (Hemenway, 1975, p. 8). And much like other uniformity standards, such as driving on the right side of the road (in the U.S.), screw threads for fire hose connectors, ''handshake'' protocols for communication between computers, and, for that matter, language, GHS would provide significant efficiencies and economies.[2] In the case of GHS, manufacturers would be able to produce SDSs at lower cost, and users of SDSs would be able to more fully and quickly utilize the information contained in the SDSs, thereby reducing costs and, more importantly, better protect workers against chemical hazards.[3]

Since publication of the existing HCS, there has been some movement by industry toward standardization, consistent with the proposed revisions. However, OSHA does not believe that full and comprehensive standardization, as required under the proposed revisions, or that the goal of harmonizing the U.S. system with the international one could be achieved voluntarily in the absence of regulation.

First, in a basic sense, GHS cannot simply be implemented by the market. Some aspects of GHS, such as the reorganization of SDSs, would be allowed under the existing OSHA standard, but other aspects, such as the classifications system, would not be. Use of differing classification criteria would lead to label warnings that are not consistent with current HCS requirements in some situations. Thus, at a minimum, OSHA would need to modify HCS to allow the use of GHS in the U.S. OSHA cannot simply provide a compliance interpretation that labels and safety data sheets prepared in accordance with the GHS meet the HCS requirements because the requirements of a standard cannot be changed through a compliance interpretation. While there is considerable overlap between the HCS and the GHS in terms of coverage, there are differences in the criteria used to classify both substances and mixtures that will result in different hazards being covered in some situations. This is particularly true in the area of acute toxicity, where OSHA is covering more substances under the modified rule than the current HCS, but potentially fewer mixtures.[4]

Second, it is important to understand that while the costs of creating SDSs and labels under GHS are borne directly by the chemical producers, the bulk of the benefits of adopting GHS accrue to the users. The set of all users includes employers who are direct customers of a chemical manufacturer, employees who use or are exposed to workplace chemicals, and emergency responders, who typically have no market relationship with the producers of the chemical. Even if one thought that market forces might assure the socially optimal approach to SDSs between manufacturers of chemicals and their customers, there are limited market forces at work between the chemical manufacturer and these two other sets of users—the employees and the emergency response community. Therefore, the presence of positive GHS externalities would prevent the private market, without regulation, from achieving the socially optimal adoption of GHS.

OSHA does anticipate that there will be some increased market pressure to comply with GHS that will affect some firms that may think that they have no need to switch to the GHS system because they do not ship their products internationally. Many small firms do not realize the extent to which they are involved in international trade. There are probably few companies who have products that are never involved in international trade, or who never import chemical products and need hazard communication information for them. Many chemical producers ship their products to distributors and are unaware of where their products are ultimately used. OSHA can envision a likely scenario in which these distributors provide pressure to their suppliers to become GHS-compliant. Further, small companies sell products to larger companies. The larger companies may use those products to prepare goods that are exported. These larger companies might also be expected to pressure their small firm suppliers to be GHS-compliant. Nevertheless, such an approach would surely involve a long transition period, with attendant losses in worker protection and production efficiencies, and it is doubtful that market pressure alone would achieve full compliance.

The changes made by GHS will involve costs for all parties. Producers of chemicals will incur substantial costs but will also achieve benefits—in part because they themselves benefit as both producers and users, and in part, as a result of foreign trade benefits that OSHA has not quantified. Some producers will not see these types of trade benefits if they do not engage in exporting chemicals. However, many small companies are currently prevented from engaging in international trade because of the substantial burdens of complying with many different countries' requirements. International harmonization of hazard communication requirements would enable these small companies to become involved in international trade if they so desire.

Of more significance to the concerns of the OSH Act, the changes also provide substantial benefits to users, including:

- Fewer illnesses, injuries, fatalities, and accidents due to a more consistent, comprehensible, and clearer system that does not require English literacy to obtain some minimal hazard information;
- Greater ease of use of SDSs; and
- Reduced training requirements for workers due to a clearer and more uniform system.

Because many of these benefits require uniformity, and the benefits are dispersed throughout a network of producers and users, only some of

[2] In contrast to a uniformity standard, a specification standard, such as an engineering standard, would spell out, in detail, the equipment or technology that must be used to achieve compliance. The usual rationale for a specification standard is that compliance would be difficult to verify under a performance standard; hence, only a specification standard would guarantee that employees are protected against the risk in question. Note that an engineering standard would generally not provide efficiencies or economies to the regulated community. On the contrary, an engineering standard would impose additional costs on some firms, in that they could effectively protect workers using an alternative approach, if it were permitted.

It is also worth noting that, for uniformity standards with technological implications, the benefits of reduced information costs, economies of uniformity, and facilitation of exchange may need to be weighed against possible losses of flexibility, experimentation, and innovation. However, because GHS is limited to the presentation of hazard information and does not involve technological or strategic considerations, the possible costs of uniformity here would be non-existent or minuscule.

[3] On the ability of individuals to more fully and effectively utilize knowledge when uniformity requirements are present, see Hemenway, *1975,* pp. 34–35.

[4] The coverage of fewer mixtures is due to the bridging principles and formula being applied to their classification, rather than being based strictly on a 1 percent cut-off.

which have direct market relationships with each other, OSHA believes that only a single, uniform standard can achieve the full net benefits available to a hazard communications system.

C. Profile of Affected Industries

The proposed revisions to the HCS would affect establishments in a variety of different industries in which employees are exposed to hazardous chemicals or in which hazardous chemicals are produced. Every workplace in OSHA's jurisdiction in which employees are exposed to hazardous chemicals is covered by the HCS and is required to have a hazard communication program.

The proposed revisions to the HCS are not anticipated to either increase or decrease the scope of affected industries or establishments. The proposed revisions define and revise specific classifications and categories of hazards, but the scope of the requirements under which a chemical, substance, or mixture becomes subject to the requirements of the standard are not substantially different from the current HCS. Therefore, the proposed revisions should have little or no effect on whether an entire establishment falls within the scope of the standard. OSHA requests comments from the public regarding this preliminary determination.

For establishments with employees exposed to hazardous chemicals, the proposed revisions to the HCS would generally involve management becoming familiar with and employees receiving training on the new warning labels and the new format of the SDSs. For establishments producing or importing hazardous chemicals, generally as part of the chemical manufacturing industry, the revisions to the standard would involve reclassifying chemicals in accordance with the new classification system and revising safety data sheets and labels associated with hazardous chemicals.

OSHA's estimates of the number of employees covered by the standard are based on the preliminary determination that all production employees in manufacturing would be covered, and that, in addition, employees in other industries working in any of the occupations specified in the PP&E report would also be exposed to hazardous chemicals.

Table VII–2 provides an overview of the industries and estimated numbers of employees potentially affected by the HCS. OSHA welcomes additional information and data that may help improve the accuracy of these estimates.

The industries and establishments affected by the proposed revisions can be divided into two categories. The first category contains establishments that are required to produce labels and SDSs; the second category contains establishments that do not produce labels or SDSs but are required to provide employee access to labels and SDSs, supplied by others, for the chemicals to which their employees may be exposed in the workplace. As noted, OSHA has preliminarily judged that SDSs for imported chemicals would normally be produced in the country of origin, and thus would not represent expenses for importers or other US firms.

As shown in Table VII–2, approximately 75,000 firms, in over 90,000 establishments, create hazardous chemicals (*i.e.*, products, substances, or mixtures) for which a label and an SDS are required in accordance with the OSHA HCS. Approximately 880,000 SDSs and corresponding container labels would be potentially affected by the proposed revisions to the HCS. OSHA estimates that the adoption of GHS through this proposal would not significantly change the numbers of labels and SDSs produced. OSHA welcomes comment on this issue.

In many instances, firms may be already producing several different versions of SDSs and labels for the same product to satisfy different regulatory requirements in different jurisdictions, including SDSs and labels consistent with GHS criteria. For these products, the proposed revisions to the OSHA HCS would be satisfied relatively easily and may result in a reduction in overall compliance costs by reducing the number of different labels and SDSs needed for each affected product.

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Table VII-2
Industry Profile

NAICS Code	Industry	Total Number of Firms	Number of Affected Firms	Total Number of Establishments	Number of Affected Establishments	Total Employees	Employees to be Trained	Number of SDSs Produced
11	**Agriculture, Forestry, Fishing & Hunting**							
113	Forestry & Logging	12,301	12,301	12,509	12,509	75,822	20,752	0
114	Fishing, Hunting and Trapping	2,368	1,086	2,385	1,103	9,244	2,184	0
115	Support Activities for Ag & Forestry	11,165	5,021	11,658	5,487	96,096	11,738	0
211	**Oil and Gas Extraction**							
211111	Crude petroleum & natural gas extraction	6,238	6,238	7,135	7,135	76,794	47,962	55,825
211112	Natural gas liquid extraction	113	113	494	494	11,486	9,691	10,700
212	Mining (except Oil & Gas)	4,669	4,669	7,205	7,205	194,174	155,834	0
213	Support Activities for Mining	7,587	7,587	9,037	9,037	183,321	135,602	0
22	**Utilities**							
2211	Electric Power Gen, Trans & Distrib	1,756	1,756	9,493	9,493	515,769	251,589	0
2212	Natural Gas Distribution	631	631	2,897	2,897	86,890	37,492	0
2213	Water, Sewage, & Other Systems	5,296	5,296	6,042	6,042	45,595	24,769	0
23	**Construction**							
236	Construction of Buildings	224,416	224,416	226,394	226,394	1,585,717	1,088,995	0
237	Heavy Construction	38,610	38,610	39,949	39,949	856,312	520,365	0
238	Special Trade Contractors	438,835	438,835	443,982	443,982	3,865,341	3,047,666	0
31	**Manufacturing**							
311	Food Manufacturing	21,384	21,384	25,698	25,698	1,443,766	1,121,846	0
312	Beverage &Tobacco Prod. Manuf.	2,721	2,721	3,232	3,232	163,395	95,319	0
313	Textile Mills	3,398	3,398	4,045	4,045	261,655	221,502	0
314	Textile Product Mills	6,956	6,956	7,332	7,332	190,209	154,672	0
315	Apparel Manufacturing	12,862	12,862	13,359	13,359	350,439	275,995	0
316	Leather & Allied Product Manufac.	1,481	1,481	1,549	1,549	47,795	37,996	0
321	Wood Product Manufacturing	15,198	15,198	17,052	17,052	534,011	434,987	0
322	Paper Manufacturing	3,538	3,538	5,546	5,546	495,990	385,229	0

Table VII-2
Industry Profile
(Continued)

NAICS Code	Industry	Total Number of Firms	Number of Affected Firms	Total Number of Establishments	Number of Affected Establishments	Total Employees	Employees to be Trained	Number of SDSs Produced
323	Printing and Related Support	35,174	35,174	36,902	36,902	706,419	516,676	0
324	**Petroleum & Coal Prod. Manufac.**							
324110	Petroleum refineries	202	202	349	349	62,132	37,744	31,790
324121	Asphalt paving mixture & block mfg	494	494	1,303	1,303	12,664	9,436	120,140
324122	Asphalt shingle & coating materials mfg	132	132	234	234	13,142	9,635	18,620
324191	Petroleum lubricating oil & grease mfg	275	275	330	330	9,605	5,142	15,860
324199	All other petroleum & coal products mfg	68	68	80	80	2,860	2,156	4,650
325	**Chemical Manufacturing**							
325110	Petrochemical mfg	39	39	58	58	10,449	5,153	4,704
325120	Industrial gas mfg	87	87	551	551	9,557	4,182	4,878
325131	Inorganic dye & pigment mfg	59	59	78	78	7,649	5,334	754
325132	Synthetic organic dye & pigment mfg	94	94	120	120	6,983	3,924	2,807
325181	Alkalies & chlorine mfg	25	25	38	38	4,483	3,139	286
325182	Carbon black mfg	11	11	25	25	1,708	1,139	214
325188	All other basic inorganic chemical mfg	367	367	611	611	49,845	30,634	17,350
325191	Gum & wood chemical mfg	41	41	54	54	2,139	1,280	2,540
325192	Cyclic crude & intermediate mfg	37	37	46	46	5,074	2,944	645
325193	Ethyl alcohol mfg	60	60	66	66	1,735	1,279	835
325199	All other basic organic chemical mfg	443	443	640	640	73,342	41,633	26,582
325211	Plastics material & resin mfg	443	443	695	695	59,840	37,775	82,570
325212	Synthetic rubber mfg	137	137	163	163	10,389	7,677	2,027
325221	Cellulosic organic fiber mfg	10	10	19	19	2,365	1,846	33
325222	Noncellulosic organic fiber mfg	65	65	92	92	24,214	19,015	0
325311	Nitrogenous fertilizer mfg	130	130	157	157	4,949	3,142	209

Table VII-2
Industry Profile
(Continued)

NAICS Code	Industry	Total Number of Firms	Number of Affected Firms	Total Number of Establishments	Number of Affected Establishments	Total Employees	Employees to be Trained	Number of SDSs Produced
325312	Phosphatic fertilizer mfg	35	35	50	50	6,288	4,724	82
325314	Fertilizer (mixing only) mfg	362	362	520	520	9,009	5,569	4,890
325320	Pesticide & other agricultural chemical mfg	198	198	235	235	14,021	7,607	5,282
325411	Medicinal & botanical mfg	326	326	353	353	22,496	11,153	3,440
325412	Pharmaceutical preparation mfg	727	727	891	891	144,577	62,540	11,060
325413	In-vitro diagnostic substance mfg	175	175	205	205	42,239	15,531	24,179
325414	Biological product (except diagnostic) mfg	242	242	330	330	28,593	13,660	3,084
325510	Paint & coating mfg	1,107	1,107	1,363	1,363	47,329	19,989	90,250
325520	Adhesive mfg	468	468	603	603	21,058	12,961	25,885
325611	Soap & other detergent mfg	671	671	735	735	25,983	15,930	16,200
325612	Polish & other sanitation good mfg	591	591	647	647	20,751	11,322	14,845
325613	Surface active agent mfg	149	149	178	178	7,301	3,234	6,370
325620	Toilet preparation mfg	726	726	794	794	56,647	36,416	17,986
325910	Printing ink mfg	226	226	501	501	12,001	5,882	54,145
325920	Explosives mfg	61	61	92	92	6,304	4,786	2,463
325991	Custom compounding of purchased resin	563	563	660	660	22,909	14,239	5,881
325992	Photographic film, paper, plate, & chemical mfg	348	348	379	379	30,322	18,734	2,841
325998	Miscellaneous chemical product & preparation mfg	986	986	1,147	1,147	34,881	20,235	49,165
326	Plastics and Rubber Products Man.	12,223	12,223	15,462	15,462	925,607	721,853	38,927
327	Nonmetallic Mineral Prod. Manufac.	11,395	11,395	16,674	16,674	475,476	372,842	41,536
331	Primary Metal Manufacturing	5,154	5,154	6,229	6,229	501,038	392,944	15,187
332	Fabricated Metal Prod. Manufac.	57,398	57,398	61,652	61,652	1,582,399	1,175,989	0
333	Machinery Manufacturing	25,245	25,245	27,941	27,941	1,166,221	719,025	0
334	Computer & Electronic Prod Man.	13,833	13,833	15,883	15,883	1,300,411	573,517	0

Table VII-2
Industry Profile
(Continued)

NAICS Code	Industry	Total Number of Firms	Number of Affected Firms	Total Number of Establishments	Number of Affected Establishments	Total Employees	Employees to be Trained	Number of SDSs Produced
335	Electric Equipment, Appliance Man.	5,546	5,546	6,601	6,601	502,400	363,433	0
336	Transportation Equip. Manufacturing	10,114	10,114	12,202	12,202	1,578,707	1,129,194	0
337	Furniture & Related Product Man.	21,194	21,194	22,083	22,083	575,128	454,344	0
339	Miscellaneous Manufacturing	28,269	28,269	29,507	29,507	664,710	418,422	42,543
42	**Wholesale Trade**							
423	Durable Goods	221,357	221,357	282,959	282,959	3,443,697	969,852	0
424	Nondurable Goods	124,758	124,758	153,941	153,941	2,416,559	905,759	0
44-45	**Retail Trade**							
441	Motor vehicle & parts dealers	96,890	96,890	126,644	126,644	1,890,916	644,840	0
442	Furniture & home furnishings stores	49,846	49,334	66,360	64,447	551,567	119,718	0
443	Electronics & appliance stores	34,012	13,483	49,600	28,152	418,725	37,305	0
444	Building material & garden equipment & dealers	68,829	68,829	94,109	94,109	1,270,736	262,840	0
445	Food & beverage stores	119,448	69,593	155,677	104,851	2,883,997	389,366	0
446	Health & personal care stores	42,643	42,643	82,574	82,574	988,347	391,312	0
447	Gasoline stations	64,068	37,909	117,100	89,367	895,983	97,373	0
448	Clothing & clothing accessories stores	69,030	6,877	151,895	25,061	1,408,948	25,061	0
451	Sporting goods, hobby, book, & music stores	43,888	11,841	65,933	32,301	617,726	32,937	0
452	General merchandise stores	9,681	3,240	41,069	34,521	2,546,094	174,860	0
453	Miscellaneous store retailers	104,458	46,758	129,997	70,126	822,992	88,788	0
454	Nonstore retailers	37,115	29,791	44,735	37,076	523,873	108,388	0
48-49	**Transportation & Warehousing**							
481	Air transportation	2,762	1,706	5,512	4,405	548,258	77,355	0
483	Water transportation	1,418	1,418	1,902	1,902	64,268	40,259	0
484	Truck transportation	98,645	98,645	111,308	111,308	1,333,342	1,076,215	0

Table VII-2
Industry Profile
(Continued)

NAICS Code	Industry	Total Number of Firms	Number of Affected Firms	Total Number of Establishments	Number of Affected Establishments	Total Employees	Employees to be Trained	Number of SDSs Produced
485	Transit & ground passenger transportation	14,770	7,300	17,073	9,586	387,325	33,467	0
486	Pipeline transportation	244	244	2,701	2,701	50,362	24,691	0
487	Scenic & sightseeing transportation	2,429	1,694	2,503	1,761	19,333	4,740	0
488	Support activities for transportation	26,501	26,501	33,342	33,342	475,466	229,856	0
492	Couriers & messengers	8,385	8,385	13,173	13,173	553,250	357,439	0
493	Warehousing & storage	4,917	4,917	7,629	7,629	149,409	91,373	0
51	**Information**							
511	Publishing industries	24,761	18,068	32,577	25,693	1,019,976	150,623	0
512	Motion picture & sound recording industries	19,129	3,414	23,021	7,182	278,399	11,123	0
513	Broadcasting & telecommunications	17,013	5,562	58,712	46,958	1,698,408	65,743	0
514	Information services & data processing services	17,137	3,392	24,280	9,961	539,337	11,302	0
52	**Finance & Insurance**							
521	Monetary authorities - central bank	12	12	58	58	23,367	666	0
522	Credit intermediation & related activities	58,662	5,588	196,160	14,860	3,006,084	14,860	0
523	Securities intermediation & related activities	48,121	1,912	81,690	4,890	1,008,867	4,890	0
524	Insurance carriers & related activities	129,959	13,454	168,976	46,190	2,342,005	48,311	0
525	Funds, trusts, & other financial vehicles	2,531	443	3,538	1,082	34,260	1,127	0
53	**Real Estate & Rental and Leasing**							
531	Real estate	226,318	193,393	257,195	221,358	1,351,973	419,807	0
532	Rental & leasing services	31,575	31,575	63,645	63,645	641,322	184,804	0
533	Lessors of intangibles, except copyrighted works	2,077	737	2,184	827	24,052	1,279	0
54	**Professional, Scientific, & Technical**							
5411	Legal services	170,427	4,520	178,692	5,128	1,138,451	5,128	0
5412	Accounting, tax, bookkeeping, & payroll services	99,149	10,697	110,844	20,331	1,241,269	25,461	0

Table VII-2
Industry Profile
(Continued)

NAICS Code	Industry	Total Number of Firms	Number of Affected Firms	Total Number of Establishments	Number of Affected Establishments	Total Employees	Employees to be Trained	Number of SDSs Produced
5413	Architectural, engineering, & related services	95,966	25,079	108,061	36,624	1,236,939	55,328	0
5414	Specialized design services	30,426	10,024	30,711	10,240	131,546	14,419	0
5415	Computer systems design & related services	92,606	5,490	102,872	9,329	1,089,497	9,329	0
5416	Management, scientific, & tech consulting services	110,393	21,006	117,008	27,042	820,439	51,064	0
5417	Scientific R&D Serv.	11,418	4,829	13,944	7,258	399,213	27,349	0
5418	Advertising & related services	34,459	12,734	37,930	16,016	411,819	34,876	0
5419	Other professional, scientific, & technical services	64,480	64,480	72,303	72,303	577,032	205,945	0
55	**Management of Companies**							
551111	Offices of bank holding companies	1,218	948	1,496	1,225	38,730	3,989	0
551112	Offices of other holding companies	8,821	4,977	9,820	5,937	206,973	21,318	0
551114	Corporate, subsidiary, & regional managing offices	19,382	18,420	38,067	37,051	2,668,095	274,811	0
56	**Adm and Support & Waste Management**							
561	Administrative and Support Serv.	275,183	275,183	325,846	325,846	7,998,637	3,812,211	0
562	Waste management & Remediation Serv.	14,184	14,184	17,698	17,698	300,580	210,428	0
61	**Educational Services**							
6111	Elementary & secondary schools	18,547	15,601	20,894	17,934	793,638	66,609	0
6112	Junior colleges	624	447	931	754	95,015	5,475	0
6113	Colleges, universities, & profesional schools	2,593	2,147	3,377	2,929	1,403,085	165,494	0
6114	Business schools, & computer & mgmt training	6,766	630	7,285	758	58,275	758	0
6115	Technical & trade schools	6,063	2,190	7,076	3,110	84,048	4,454	0
6116	Other schools & instruction	27,002	3,420	28,988	3,916	216,593	3,916	0
6117	Educational support services	4,541	689	5,150	1,183	51,021	1,293	0

Table VII-2
Industry Profile
(Continued)

NAICS Code	Industry	Total Number of Firms	Number of Affected Firms	Total Number of Establishments	Number of Affected Establishments	Total Employees	Employees to be Trained	Number of SDSs Produced
62	**Healthcare and Social Assistance**							
621	Ambulatory health care services	424,694	424,694	487,747	487,747	4,917,156	2,893,916	0
622	Hospitals	4,548	4,548	7,569	7,569	5,121,584	3,596,545	0
623	Nursing & residential care facilities	32,720	32,720	67,900	67,900	2,770,665	1,767,442	0
624	Social assistance	102,620	78,761	140,324	115,863	2,090,743	282,495	0
71	**Arts, Entertainment & Recreation**							
711	Performing arts, spectator sports, etc.	37,545	12,987	38,191	13,563	370,329	44,899	0
712	Museums, historical sites, & similar institutions	6,135	3,432	6,633	3,883	116,123	13,453	0
713	Amusement, gambling, & recreation industries	59,437	47,924	65,551	53,870	1,314,539	228,698	0
72	**Accommodation & Food Services**							
721	Accommodation	51,168	51,168	61,795	61,795	1,696,701	585,937	0
722	Food services & drinking places	376,637	62,931	503,354	110,106	8,352,174	110,106	0
81	**Other Services (except Public Adm.)**							
811	Repair & maintenance	215,083	215,083	233,234	233,234	1,334,875	917,266	0
812	Personal & laundry services	169,042	128,242	206,884	163,406	1,314,320	259,362	0
813	Religious/grantmaking/civic/professional & similar	291,212	122,918	300,000	131,069	2,770,892	225,286	0

Table VII-2
Industry Profile
(Continued)

NAICS Code	Industry	Total Number of Firms	Number of Affected Firms	Total Number of Establishments	Number of Affected Establishments	Total Employees	Employees to be Trained	Number of SDSs Produced
99	**State and Local Government** (about half covered by OSHA standards)							
9992	State Government	n.a.	n.a.	n.a.	n.a.	2,242,536	324,618	0
9993	Local Government	n.a.	n.a.	n.a.	n.a.	6,706,471	1,841,671	0
	Total for firms producing SDSs	**74,507**	**74,507**	**90,801**	**90,801**	**3,558,730**	**2,463,420**	**880,260**
	Total for firms not producing SDSs	**5,672,219**	**3,911,083**	**7,060,667**	**4,952,525**	**116,746,665**	**38,165,395**	**0**
	Total	**5,746,726**	**3,985,590**	**7,151,468**	**5,043,326**	**120,305,395**	**40,628,815**	**880,260**

Source: Office of Regulatory Analysis, OSHA, based on PP&E (2008)

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OSHA requests comments from the public regarding these preliminary conclusions and requests information on the number and type of labels and

SDSs that would be affected or produced as a result of this proposal.

The second category of industries and establishments affected by the proposed revisions contains those that do not produce SDSs but are required to provide their employees with access to SDSs supplied by others as part of a hazard communication program covering chemicals to which employees may be exposed in the workplace. The effects on these establishments would generally involve promoting employee awareness of and management familiarization with the revisions to SDSs and labels.

As shown in Table VII–2, an estimated 38 million employees are potentially exposed to hazardous chemicals in these workplaces and are covered by the OSHA HCS. Including employees working in establishments that produce SDSs, a total of 41 million employees would potentially need to become familiar with the proposed revisions to SDSs and labels. As also shown in Table VII–2, OSHA estimates that there are over five million workplaces where employees may be potentially exposed to hazardous chemicals. OSHA requests comments and information from the public regarding these estimates.

D. Benefits, Net Benefits, and Cost-Effectiveness

OSHA estimates that the promulgation of the proposed revisions would result in substantial benefits from a variety of sources. OSHA's estimates of the benefits include improvements in occupational safety and health and a corresponding reduction in the annual number of injuries, illnesses, and fatalities sustained by employees from exposure to hazardous chemicals; reductions in costs for producers of hazardous chemicals; increased efficiencies in the handling and use of hazardous chemicals; and other benefits as described in this section. OSHA requests comments and information from the public regarding the nature and extent of any benefits that may be associated with the proposed revisions.

OSHA expects the proposed revisions to the HCS would result in an increased degree of safety and health for the affected employees and to reduce the number of accidents, fatalities, injuries, and illnesses associated with exposure to hazardous chemicals.

As explained in detail in Section V of the preamble, the design of GHS was based on years of extensive research that demonstrated the effectiveness of pictograms, specific signal words, and a standardized format. As a result of this research, OSHA is confident that the GHS revisions to the HCS standard for labeling and safety data sheets would enable employees exposed to workplace chemicals to more quickly obtain and more easily understand information about the hazards associated with those chemicals. Warning labels on products covered by the standard, which provide an immediate visual reminder of the chemical hazards involved, would be made more intuitive, self-explanatory, and logical, and the nature and extent of any associated hazards would be more readily understood as a result of the training required under the proposal. Relatedly, the revisions are expected to improve the use of appropriate exposure controls and work practices that can reduce the safety and health risks associated with exposure to hazardous chemicals.

In addition, the standardized format of the safety data sheets would enable critical information to be accessed more easily and quickly during emergencies. This can reduce the risk of injury, illness, and death to exposed employees and to rescue personnel and can reduce property damage.

It is difficult to quantify precisely how many injuries, illnesses, and fatalities would be prevented due to the proposed revisions to the HCS. The benefits associated with the existing HCS may help provide a general sense of the potential magnitude of the benefits of the proposed revisions to the HCS. A discussion and analysis of the benefits that would result from the implementation of the existing OSHA HCS were included as part of the rulemaking process for the promulgation of the existing standard in the 1980s.

The existing HCS was originally promulgated in two parts. First, a final rule covering the manufacturing industry was published in the **Federal Register** in 1983 (48 FR 53280, November 25, 1983); a second final rule covering other general industries, maritime industries, construction industries, and agricultural industries was published in the **Federal Register** in 1987 (52 FR 31852, August 24, 1987).

For both of these final rules, OSHA conducted research specifically regarding the benefits that could be expected from the promulgation of these standards, as described in the preambles to the final rules. In addition, through the rulemaking process, OSHA evaluated the best available evidence, including the data and comments submitted by the public.

The information, data sources, analyses, and findings related to the estimation of the benefits associated with the standards are included in the public records for the rulemakings. The complete rulemaking records for these standards can be found in OSHA public dockets H–022B and H–022D.

The estimated benefits associated with the Hazard Communication Standards were published in the **Federal Register** with the promulgation of the final standards (48 FR 53329, November 25, 1983 and 52 FR 31872, August 24, 1987). OSHA estimated that compliance with the various Hazard Communication Standards would produce annual benefits that would include the prevention of 31,841 non-lost-workday injuries and illnesses, 20,263 lost-workday injuries and illnesses, 6,410 chronic illnesses, and 4,260 fatalities.

Using a willingness-to-pay approach for valuing these benefits, OSHA determined that the annual safety and health benefits would be over $18.2 billion annually, expressed in 1985 dollars. According to the inflation calculator provided by the Bureau of Labor Statistics, the buying power of $18.2 billion in 1985 is equivalent to the buying power of about $35.3 billion in 2007 after adjusting for inflation of 94 percent over the period.[5]

Based on the material presented in this preamble, OSHA expects that the proposed revisions to the HCS would result in incremental improvements in employee health and safety above that already achieved under the existing HCS. For purposes of this proposal, OSHA has selected an estimate of 1 percent of the health and safety benefits due to the existing HCS as the benefits that could be attributed to compliance with the proposed revisions. It is conceivable that actual benefits might be somewhat lower, but because GHS is expected to result, in some situations, in more timely and appropriate treatment of exposed workers, OSHA believes actual benefits may be larger, perhaps several times larger.[6] [7]

[5] *http://data.bls.gov/cgi-bin/cpicalc.pl.* BLS inflation calculator used on September 23, 2008.

[6] For example, one commenter on the ANPR, representing an organization whose membership includes first response and emergency management, wrote the following: ''The emergency planning and first responder community depends upon MSDS information for life and safety. The ability to immediately examine an MSDS and glean hazard and response information at the scene of an incident is critically important. The lives of first responders, employees of the facility and the public depend upon the accuracy and ease of use of the MSDS.'' (Document ID # 0033.)

[7] OSHA believes that a reasonable range for the magnitude of the health and safety benefits resulting from the proposed revisions would be equal to between 0.5 percent and 5 percent of the benefits associated with the existing HCS. These ranges are considered in the sensitivity analysis presented in Section VII.K.

If the 1 percent estimate is correct, then once all requirements take effect, they would result in the prevention of 318 non-lost-workday injuries and illnesses, 203 lost-workday injuries and illnesses, 64 chronic illnesses, and 43 fatalities annually. The monetized value of these health and safety benefits is an estimated $353 million annually.

In order to obtain a sense of how realistic these estimated safety and health benefits are in light of the current level of occupational injuries, illnesses, and fatalities that are chemically-related, OSHA reviewed relevant BLS data for the periods 1992–2007. OSHA's examination of these data shows a 42 percent decline in chemically-related acute injuries and illnesses over the period, but both remain significant problems—55,400 chemically-related illnesses and 125 chemically related-fatalities in 2007. However these readily measurable reported acute illnesses and fatalities are dwarfed by chronic illnesses and fatalities. For chronic illness fatalities, there is little information available, and certainly no annual time series data. The most recent estimate is that there were 46,900 to 73,700 fatalities due to occupational illnesses in 1992 (Leigh *et al.,* 1997). OSHA believes these more recent data from 1992–2007 show that it is plausible that HCS has had a desirable effect on chemically-related illnesses and injuries, but there remains a very significant role for further and better hazard information, as would be provided by GHS.

OSHA requests information and data from the public that could assist the agency in more accurately determining the safety and health benefits associated with the proposed revisions.

The annual benefits associated with the proposed revisions to the OSHA HCS would generally begin after full implementation of the changes and associated employee training. The phase-in period is expected to take about three years. Thus, in order to calculate the estimated annualized benefits over a twenty-year period associated with this proposed rule in a manner that would be comparable to the corresponding annualized costs, the delay in the realization of the benefits was incorporated into the calculation. Using a discount rate of 7 percent, the annual benefits beginning three years after the effective date of the revisions were multiplied by 0.7523 to calculate the annualized benefits over a twenty-year period beginning with the effective date of the final rule.[8] Thus, the annualized monetized benefit associated with the reduction in safety and health risks attributable to the proposed revisions is an estimated $266 million.

Other substantial benefits, in addition to the improved occupational safety and health of affected employees, are also expected to result from this rulemaking, as discussed in the following paragraphs.

The harmonization of hazard classifications, safety data sheet formats, and warning labels for affected chemicals and products would yield substantial savings to the businesses involved in these activities. Fewer different SDSs would have to be produced for affected chemicals, and many SDSs would be able to be produced at lower cost due to harmonization and standardization. The benefits represented by these cost reductions would primarily affect businesses involved in chemical manufacturing.

In addition, reductions in operating costs are also expected as a result of the promulgation of the proposed revisions for many businesses that purchase or use hazardous chemicals. The current non-uniformity of SDSs and labels received by establishments in practically all industries requires employees and managers in numerous positions to spend additional time on a daily basis to ascertain the appropriate way to handle and store the hazardous chemicals in their workplace. Under the revised standard, the presence of uniform and consistent information would help employers and employees to make decisions more efficiently and save substantial time.

PP&E conducted extensive research on the processes that companies use to classify chemical hazards, to develop SDSs and labels, and to handle, store, and use hazardous chemicals. PP&E evaluated how these processes would be affected by the proposed revisions to the HCS and analyzed the potential savings that would be realized as a result of adopting these revisions.

Based on the PP&E report, OSHA developed estimates of the cost reductions that the affected companies would expect to obtain as a result of the proposed revisions to the OSHA HCS. Among the various benefits expected to be realized as a result of the implementation of the proposed revisions, as described in this section, OSHA quantified two general categories of cost savings. First, OSHA estimated the number of hours that each industry would save by improving the efficiency and productivity of personnel who use SDSs in performing their job functions. OSHA estimated that the amount of time spent during affected activities in the manufacturing sector could be reduced by 3 percent for health and safety supervisors and by 15 percent for logistics personnel specializing in handling hazardous chemicals.[9] OSHA further estimated that this time reduction, and the associated cost savings, would apply to about 7,000 health and safety supervisors and 52,000 logistics personnel in the manufacturing sector and would yield annualized benefits of approximately $569 million.[10] Similar potential time and cost savings as a result of the proposed revisions to the OSHA HCS were not quantified for the non-manufacturing sectors.

Second, OSHA estimated that, for the manufacturing sectors, the costs associated with the creation and revision of SDSs in future years would be reduced by the proposed revisions. The creation and revision of individual SDSs would be less burdensome, and, in addition, fewer different versions of SDSs would need to be produced for affected chemicals and products. OSHA estimated that, depending on firm size, the combination of these two effects

[8] The formula for annualizing the benefits is equal to:

$$[(1.07)^{-3}] * [(1-(1.07)^{-17})/0.07] * [0.07/((1-(1.07)^{-20})],$$

where the first term in brackets reflects the three year delay until annual benefits are realized; the second term in brackets reflects the present value of seventeen years of annual benefits (from years 4 through 20), and the third term in brackets annualizes the present value of benefits over a 20-year period.

[9] For example, as described by PP&E, the job of a logistics person, depending on the company, consists of the following tasks: (1) Receive hazardous chemicals; (2) gather the associated SDSs—either those that are attached to the shipment or those that are attached to the invoice; (3) extract the relevant information from the SDSs and enter it in the plant's SDS management system; (4) insert paper copies of the SDSs into the (hard copy) SDS management folder; (5) if the information is not available (particularly in the older 9-section SDSs), then look for 12-section SDSs prepared by some other manufacturer; (6) prepare in-plant labels; (7) determine special storage and use requirements, make appropriate arrangements for short-term and long-term storage, and distribute information to different process lines or field offices; (9) participate in the training of line supervisors and production workers; (10) train new employees; and (11) carry out other logistics duties at the plant. The proposed GHS standard, by making the structure and content of SDS uniform, would help to reduce the time it takes to perform each of the above tasks.

[10] These estimates assume 2,000 hours of work a year for 7,070 health and safety supervisors and 52,280 logistics personnel specializing in handling hazardous chemicals in the manufacturing sector; an hourly wage of $47; and a time savings of 3 percent and 15 percent, respectively, for health and safety supervisors and logistics personnel. The resulting annual savings of $757 million was multiplied by 0.7523 to annualize the savings over a twenty-year period with savings not accruing until three years after the effective date of the revisions.

would result in annual savings equivalent to between 2.5 and 4 hours of a professional's time per existing SDS and a total annualized savings of $16 million.[11]

Combining the improved productivity of personnel who use SDSs and the improved efficiency of those who revise SDSs and labels, OSHA concluded that the annual cost savings for companies in the manufacturing sector would be an estimated $585 million.

A secondary benefit of the adoption of GHS is that it would facilitate international trade, increasing competition, increasing export opportunities for U.S. businesses, reducing costs for imported products, and generally expanding the selection of chemicals and products available to U.S. businesses and consumers. As a result of the direct savings resulting from the harmonization and the associated increase in international competition, prices for the affected chemicals and products, and the corresponding goods and services using them, should decline, although perhaps only by a small amount.

The proposed revisions may also result in reductions in the costs associated with providing training for employees as required by the existing OSHA HCS. Companies would save considerable time and effort in training new employees in the future. The potential savings would be attributable in part to reducing or eliminating the need to explain the different types of formats used to convey hazard information and the different types of information included in the contents of SDSs and labels.

Finally, the proposed GHS modifications to the OSHA HCS would meet the international goals for adoption and implementation of the GHS that were supported by the U.S. government. Implementing GHS in U.S. Federal laws and policies through appropriate legislative and regulatory action was anticipated by the U.S. support of international mandates regarding the GHS in the Intergovernmental Forum on Chemical Safety, the World Summit on Sustainable Development, and the United Nations. It is also consistent with the established goals of the Strategic Approach to International Chemical Management that the U.S. helped to craft.

Table VII–1 provides a summary of the costs and benefits of the proposed revisions to the OSHA HCS, and it shows the net benefits and cost-effectiveness of the revisions to the standard. Net monetized benefits are estimated to be $754 million annually. The cost-effectiveness of the standard can be expressed as more than eight dollars of benefits for every dollar of cost.

Some qualitative evidence of the cost-effectiveness of the standard was provided by comments submitted in response to the Advance Notice for Proposed Rulemaking (ANPR) published by OSHA in the **Federal Register** on September 12, 2006 (71 FR 53617). There was widespread (but not unanimous) support among the commenters for the adoption of GHS in the United States. This included commenters who provided some of the largest estimates of the costs of the proposed revisions. (Document IDs # 0032 and # 0050).[12]

E. Technological Feasibility

In accordance with the OSH Act, OSHA is required to demonstrate that occupational safety and health standards promulgated by the Agency are technologically feasible. In fulfillment of this requirement, OSHA has reviewed the requirements that would be imposed by the proposal, and has assessed their technological feasibility. As a result of this review, OSHA has determined that compliance with the requirements of the proposal is technologically feasible for all affected industries. OSHA requests comments and information from the public with regard to this preliminary determination.

The proposal would require employers producing chemicals to reclassify chemicals in accordance with the new classification criteria and revise safety data sheets and labels associated with hazardous chemicals. Compliance with these requirements is not expected to involve any technological obstacles.

The proposal would also require employers whose workplaces involve potential exposure to hazardous chemicals to train employees on the relevant aspects of the revised approach to hazard communication. Affected employees would need additional training to explain the new labels and safety data sheets. Compliance with these requirements is not expected to involve any technological obstacles.

Compliance with all of the proposed requirements can be achieved with readily and widely available technologies. Businesses in the affected industries have long been required to be in compliance with the existing HCS which includes similar requirements. The revised HCS would simply require modifying the labels and SDSs for hazardous chemicals and adding some training to ensure employee familiarization with the changes made. Therefore, there are no new technologies required for compliance with the modifications. In addition, some businesses in the affected industries have already implemented many of the requirements of the proposed standard to varying degrees. OSHA believes that there are no technological constraints associated with compliance with any of the proposed requirements, and welcomes comments regarding this conclusion.

F. Costs of Compliance

Introduction

This section presents the estimated costs of compliance for the proposed revisions to the OSHA HCS. The estimated costs of compliance represent the additional costs necessary for employers to achieve full compliance. They do not include costs associated with current compliance with the new requirements.

The compliance costs associated with the proposal generally consist of the one-time transition costs to adopt the modified criteria for classifications and formats as required under the new system. Ongoing annual costs associated with compliance with the existing OSHA HCS are not expected to increase. As discussed in the benefits section, the adoption of the new system is expected to reduce some of the ongoing costs associated with compliance with the HCS after the completion of the transition period.

The costs of compliance with the proposed revisions consist of three main categories: the cost of reclassification and revision of SDSs and labels, the cost of training employees, and the cost of management familiarization and other management costs associated with the administration of hazard communication programs.

[11] These estimates assume ⅓ of the estimated 880,260 SDSs are reviewed each year; savings per SDS is between 2½ and 4 hours, depending on firm size (with an average per SDS of about 3.2 hours); personnel reviewing the SDSs receive an hourly wage of $47; and existing compliance rates are between 1 percent and 75 percent, depending on firm size (with an average per SDS of about 53 percent). The resulting annual savings of $21 million was multiplied by 0.7523 to annualize the savings over a twenty-year period with savings not accruing until three years after the effective date of the revisions.

[12] One of these commenters is an international trade association for the institutional and industrial cleaning industry that represents over 4,600 manufacturer, distributor, building service contractor, and in-house service provider members worldwide. The other is a trade association representing some 400 manufacturers of paints, coatings, adhesives, sealants, and caulks, raw materials suppliers to the industry, and product distributors.

The estimated compliance costs associated with the proposed revisions are based on a preliminary determination that the revisions would not significantly change the number of chemicals or products for which an SDS will be required, which also means that there will be no change in the number of establishments required to implement a hazard communication program. OSHA requests comments and information from the public regarding this preliminary determination.

Other than the direct costs of reclassification and relabeling, the estimated compliance costs do not include any further costs or impacts that may result from the reclassification or relabeling of chemicals and products already subject to the HCS, such as possible changes in production or demand for products. Theoretically, such impacts, if any, with regard to possible changes in the uses and applications of affected chemicals, could be positive as well as negative. OSHA has preliminarily determined that such effects, if any, will not be significant, and requests comments and information from the public regarding this determination.

In addition to the proposed revisions to the HCS, the proposed rulemaking also includes related proposed revisions to other OSHA standards. The revisions to the other standards generally ensure that all OSHA requirements related to hazard communication remain consistent with each other and become consistent with the GHS. OSHA has preliminarily determined that the proposed revisions to the other standards would not impose significant costs beyond those reflected in the preliminary compliance cost estimates for this rulemaking, and requests comments and information from the public regarding this determination.

In order to have compliance costs presented on a consistent and comparable basis across various regulatory activities, the costs of compliance for this proposed rule are expressed in annualized terms. Annualized costs represent the more appropriate measure for assessing the longer-term potential impacts of the rulemaking. The estimated annualized cost of compliance is also provided for purposes of comparing compliance costs and cost-effectiveness across diverse regulations with a consistent metric. In addition, annualized costs are often used for accounting purposes to assess the cumulative costs of regulations on the economy or specific parts of the economy across different regulatory programs or across years. Annualized costs also permit costs and benefits to be presented in a comparable manner. The annualized cost was calculated by annualizing the one-time transition costs over a period of 20 years and applying a discount rate of 7 percent.

Table VII–3 shows the estimated annualized compliance cost by cost category and by industry sector. As shown in Table VII–3, the total annualized cost of compliance with the proposed rulemaking is estimated to be about $97 million. Of this amount, the cost of chemical hazard reclassification and revision of SDSs and labels is an estimated $11 million, the cost of training employees is an estimated $44 million, and the cost of management familiarization and other management costs is an estimated $42 million.

As shown in Table VII–3, most of the compliance cost associated with chemical hazard reclassification and revision of SDSs and labels would be borne by the chemical manufacturing industry. Table VII–3 also shows that compliance costs are spread across all industries in the U.S. economy subject to OSHA jurisdiction, reflecting the fact that employee exposures to hazardous chemicals occur in almost every industry sector.

OSHA expects that the compliance costs would be incurred over a period of three years, as the proposal would incorporate a three-year transition period into the compliance schedule for the standard. Specifically, for purposes of estimating the annualized compliance costs, OSHA assumed that the compliance costs associated with employee training would be incurred in the two-year period following the effective date of the final standard, and that other compliance costs would be incurred in the three-year period following the effective date of the final standard.

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Table VII-3
Annualized Costs of Compliance

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Annualized Costs
11	**Agriculture, Forestry, Fishing & Hunting**				
113	Forestry & Logging	$0	$29,629	$66,608	$96,237
114	Fishing, Hunting and Trapping	$0	$3,149	$6,008	$9,157
115	Support Activities for Ag & Forestry	$0	$14,795	$29,735	$44,529
211	**Oil and Gas Extraction**				
211111	Crude petroleum & natural gas extraction	$1,129,838	$73,379	$216,427	$1,419,643
211112	Natural gas liquid extraction	$87,288	$13,405	$6,744	$107,438
212	Mining (except Oil & Gas)	$0	$100,026	$57,793	$157,819
213	Support Activities for Mining	$0	$65,809	$68,413	$134,222
22	**Utilities**				
2211	Electric Power Gen, Trans & Distrib	$0	$344,711	$374,809	$719,520
2212	Natural Gas Distribution	$0	$52,068	$105,791	$157,859
2213	Water, Sewage, & Other Systems	$0	$41,577	$197,830	$239,408
23	**Construction**				
236	Construction of Buildings	$0	$1,205,553	$1,815,955	$3,021,507
237	Heavy Construction	$0	$463,487	$320,439	$783,927
238	Special Trade Contractors	$0	$2,679,900	$3,561,275	$6,241,175
31	**Manufacturing**				
311	Food Manufacturing	$0	$1,495,454	$790,376	$2,285,830
312	Beverage &Tobacco Prod. Manuf.	$0	$128,884	$95,417	$224,301
313	Textile Mills	$0	$293,482	$126,408	$419,890
314	Textile Product Mills	$0	$210,427	$234,752	$445,179
315	Apparel Manufacturing	$0	$377,113	$437,550	$814,664
316	Leather & Allied Product Manufac.	$0	$51,294	$50,034	$101,328

Table VII-3
Annualized Costs of Compliance
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Annualized Costs
321	Wood Product Manufacturing	$0	$581,987	$540,546	$1,122,533
322	Paper Manufacturing	$0	$506,853	$155,360	$662,213
323	Printing and Related Support	$0	$718,586	$1,181,913	$1,900,499
324	**Petroleum & Coal Prod. Manufac.**				
324110	Petroleum refineries	$277,907	$49,701	$8,650	$336,257
324121	Asphalt paving mixture & block mfg	$1,124,381	$13,799	$31,126	$1,169,305
324122	Asphalt shingle & coating materials mfg	$192,106	$12,836	$6,156	$211,098
324191	Petroleum lubricating oil & grease mfg	$206,941	$7,022	$10,774	$224,737
324199	All other petroleum & coal products mfg	$57,721	$2,883	$2,440	$63,043
325	**Chemical Manufacturing**				
325110	Petrochemical mfg	$47,004	$6,769	$1,595	$55,368
325120	Industrial gas mfg	$37,517	$5,824	$9,964	$53,305
325131	Inorganic dye & pigment mfg	$8,753	$7,080	$2,735	$18,569
325132	Synthetic organic dye & pigment mfg	$39,284	$5,209	$4,196	$48,689
325181	Alkalies & chlorine mfg	$3,752	$4,156	$1,165	$9,073
325182	Carbon black mfg	$2,302	$1,516	$630	$4,449
325188	All other basic inorganic chemical mfg	$176,238	$40,322	$17,808	$234,368
325191	Gum & wood chemical mfg	$31,123	$1,773	$1,845	$34,741
325192	Cyclic crude & intermediate mfg	$5,868	$3,912	$1,143	$10,922
325193	Ethyl alcohol mfg	$13,334	$1,746	$2,709	$17,788
325199	All other basic organic chemical mfg	$259,837	$55,396	$19,304	$334,537
325211	Plastics material & resin mfg	$707,424	$50,325	$21,483	$779,231

Table VII-3
Annualized Costs of Compliance
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Annualized Costs
325212	Synthetic rubber mfg	$20,540	$10,258	$5,562	$36,361
325221	Cellulosic organic fiber mfg	$540	$2,429	$735	$3,704
325222	Noncellulosic organic fiber mfg	$0	$24,944	$4,470	$29,413
325311	Nitrogenous fertilizer mfg	$3,840	$4,208	$5,183	$13,230
325312	Phosphatic fertilizer mfg	$1,046	$6,243	$1,399	$8,688
325314	Fertilizer (mixing only) mfg	$62,333	$7,904	$20,062	$90,299
325320	Pesticide & other agricultural chemical mfg	$69,890	$10,291	$8,021	$88,203
325411	Medicinal & botanical mfg	$60,974	$13,529	$12,884	$87,388
325412	Pharmaceutical preparation mfg	$161,887	$82,575	$31,357	$275,819
325413	In-vitro diagnostic substance mfg	$226,000	$20,570	$7,172	$253,741
325414	Biological product (except diagnostic) mfg	$38,689	$18,185	$10,665	$67,539
325510	Paint & coating mfg	$973,959	$27,512	$51,081	$1,052,551
325520	Adhesive mfg	$322,231	$17,681	$22,140	$362,051
325611	Soap & other detergent mfg	$219,482	$21,582	$29,265	$270,329
325612	Polish & other sanitation good mfg	$179,028	$15,403	$25,896	$220,327
325613	Surface active agent mfg	$72,265	$4,396	$6,161	$82,822
325620	Toilet preparation mfg	$236,999	$48,504	$31,272	$316,775
325910	Printing ink mfg	$542,497	$8,233	$16,565	$567,295
325920	Explosives mfg	$25,046	$6,354	$2,838	$34,238
325991	Custom compounding of purchased resin	$72,395	$19,269	$24,258	$115,922
325992	Photographic film, paper, plate, & chemical mfg	$49,261	$25,041	$14,292	$88,594
325998	Miscellaneous chemical product & preparation mfg	$610,628	$27,783	$44,045	$682,456

Table VII-3
Annualized Costs of Compliance
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Annualized Costs
326	Plastics and Rubber Products Man.	$647,997	$952,337	$463,703	$2,064,037
327	Nonmetallic Mineral Prod. Manufac.	$665,958	$507,151	$462,737	$1,635,846
331	Primary Metal Manufacturing	$254,453	$520,840	$197,245	$972,539
332	Fabricated Metal Prod. Manufac.	$0	$1,598,857	$1,982,933	$3,581,790
333	Machinery Manufacturing	$0	$970,598	$880,371	$1,850,969
334	Computer & Electronic Prod Man.	$0	$770,886	$499,370	$1,270,256
335	Electric Equipment, Appliance Man.	$0	$483,140	$202,957	$686,097
336	Transportation Equip. Manufacturing	$0	$1,489,516	$420,019	$1,909,535
337	Furniture & Related Product Man.	$0	$617,923	$719,241	$1,337,163
339	Miscellaneous Manufacturing	$968,837	$586,567	$944,939	$2,500,342
42	**Wholesale Trade**				
423	Durable Goods	$0	$671,978	$1,321,567	$1,993,545
424	Nondurable Goods	$0	$482,598	$766,034	$1,248,632
44-45	**Retail Trade**				
441	Motor vehicle & parts dealers	$0	$642,325	$929,538	$1,571,863
442	Furniture & home furnishings stores	$0	$101,482	$255,941	$357,422
443	Electronics & appliance stores	$0	$34,982	$90,094	$125,076
444	Building material & garden equipment & dealers	$0	$191,341	$423,215	$614,556
445	Food & beverage stores	$0	$287,094	$539,050	$826,143
446	Health & personal care stores	$0	$565,575	$662,344	$1,227,918
447	Gasoline stations	$0	$157,996	$406,892	$564,888
448	Clothing & clothing accessories stores	$0	$29,602	$76,234	$105,835

Table VII-3
Annualized Costs of Compliance
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Annualized Costs
451	Sporting goods, hobby, book, & music stores	$0	$40,680	$104,765	$145,445
452	General merchandise stores	$0	$166,744	$325,838	$492,582
453	Miscellaneous store retailers	$0	$80,156	$206,426	$286,582
454	Nonstore retailers	$0	$86,473	$167,010	$253,483
48-49	**Transportation & Warehousing**				
481	Air transportation	$0	$58,720	$31,275	$89,995
483	Water transportation	$0	$21,900	$14,727	$36,627
484	Truck transportation	$0	$445,419	$613,334	$1,058,753
485	Transit & ground passenger transportation	$0	$41,964	$65,702	$107,665
486	Pipeline transportation	$0	$14,981	$21,417	$36,398
487	Scenic & sightseeing transportation	$0	$4,642	$8,174	$12,816
488	Support activities for transportation	$0	$141,061	$210,661	$351,722
492	Couriers & messengers	$0	$110,087	$73,017	$183,104
493	Warehousing & storage	$0	$69,331	$61,194	$130,525
51	**Information**				
511	Publishing industries	$0	$119,240	$150,895	$270,135
512	Motion picture & sound recording industries	$0	$12,128	$31,235	$43,363
513	Broadcasting & telecommunications	$0	$114,351	$294,491	$408,841
514	Information services & data processing services	$0	$20,174	$51,953	$72,128
52	**Finance & Insurance**				
521	Monetary authorities - central bank	$0	$302	$465	$767
522	Credit intermediation & related activities	$0	$18,831	$48,496	$67,327

Table VII-3
Annualized Costs of Compliance
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Annualized Costs
523	Securities intermediation & related activities	$0	$6,967	$17,943	$24,910
524	Insurance carriers & related activities	$0	$132,569	$341,415	$473,984
525	Funds, trusts, & other financial vehicles	$0	$2,323	$5,984	$8,307
53	**Real Estate & Rental and Leasing**				
531	Real estate	$0	$393,854	$866,516	$1,260,369
532	Rental & leasing services	$0	$171,609	$380,927	$552,537
533	Lessors of intangibles, except copyrighted works	$0	$2,065	$5,190	$7,254
54	**Professional, Scientific, & Technical**				
5411	Legal services	$0	$4,398	$11,326	$15,724
5412	Accounting, tax, bookkeeping, & payroll services	$0	$44,617	$114,904	$159,521
5413	Architectural, engineering, & related services	$0	$83,688	$206,442	$290,130
5414	Specialized design services	$0	$21,328	$49,796	$71,124
5415	Computer systems design & related services	$0	$15,861	$40,844	$56,705
5416	Management, scientific, & tech consulting services	$0	$70,810	$158,932	$229,742
5417	Scientific R&D Serv.	$0	$33,839	$52,066	$85,905
5418	Advertising & related services	$0	$41,369	$89,100	$130,468
5419	Other professional, scientific, & technical services	$0	$365,777	$579,958	$945,735
55	**Management of Companies**				
551111	Offices of bank holding companies	$0	$4,286	$8,190	$12,476
551112	Offices of other holding companies	$0	$22,562	$42,400	$64,962
551114	Corporate, subsidiary, & regional managing offices	$0	$223,505	$277,197	$500,702

Table VII-3
Annualized Costs of Compliance
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Annualized Costs
56	**Adm and Support & Waste Management**				
561	Administrative and Support Serv.	$0	$2,758,953	$2,212,042	$4,970,996
562	Waste management & Remediation Serv.	$0	$144,778	$141,959	$286,737
61	**Educational Services**				
6111	Elementary & secondary schools	$0	$78,791	$128,331	$207,122
6112	Junior colleges	$0	$4,416	$5,719	$10,135
6113	Colleges, universities, & profesional schools	$0	$152,382	$22,163	$174,545
6114	Business schools, & computer & mgmt training	$0	$887	$2,286	$3,173
6115	Technical & trade schools	$0	$6,217	$15,545	$21,762
6116	Other schools & instruction	$0	$6,722	$17,310	$24,032
6117	Educational support services	$0	$3,111	$8,013	$11,125
62	**Healthcare and Social Assistance**				
621	Ambulatory health care services	$0	$4,436,104	$3,912,323	$8,348,427
622	Hospitals	$0	$4,528,720	$60,713	$4,589,433
623	Nursing & residential care facilities	$0	$2,237,815	$544,640	$2,782,456
624	Social assistance	$0	$442,933	$818,388	$1,261,322
71	**Arts, Entertainment & Recreation**				
711	Performing arts, spectator sports, etc.	$0	$40,492	$64,763	$105,255
712	Museums, historical sites, & similar institutions	$0	$11,630	$20,294	$31,924
713	Amusement, gambling, & recreation industries	$0	$196,571	$284,569	$481,140

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Table VII-3
Annualized Costs of Compliance
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Annualized Costs
72	**Accommodation & Food Services**				
721	Accommodation	$0	$503,411	$463,257	$966,669
722	Food services & drinking places	$0	$132,627	$341,559	$474,186
81	**Other Services (except Public Adm.)**				
811	Repair & maintenance	$0	$1,099,257	$1,870,459	$2,969,716
812	Personal & laundry services	$0	$502,938	$1,106,751	$1,609,689
813	Religious/grantmaking/civic/professional	$0	$285,216	$657,996	$943,212
99	**State and Local Government** (about half covered by OSHA standards)				
9992	State Government	$0	$294,840	$102,270	$397,110
9993	Local Government	$0	$1,487,564	$85,466	$1,573,030
	Total	**$10,895,391**	**$44,372,500**	**$41,820,672**	**$97,088,564**

Note: Costs are expressed in 2007 dollars
Source: Office of Regulatory Analysis, OSHA, based on PP&E (2008)

In order to make the compliance cost estimates comparable with the corresponding benefits estimates, the expected timing of these costs was taken

into account. A seven percent discount rate was applied to costs incurred in future years to calculate the present value of these costs for the base year in which the standard becomes effective, and the same discount rate was then applied to the total present value costs, over a 20-year period, to calculate the $97 million annualized costs.

In the appendix to this cost section, Table VII–4 shows, by industry and by cost element, total non-annualized (non-discounted) compliance costs of about $1.1 billion estimated to be incurred during the three-year phase-in of the proposed revisions.

Estimation of Compliance Costs

The remainder of this section explains how the compliance costs were calculated by describing the data and methodology used to estimate each of the major cost elements. A more complete and detailed description of the estimation of compliance costs can be found in the PP&E report.

The major elements of the proposed revisions that involve compliance costs include (1) the classification of chemicals in accordance with the proposed criteria and the revisions to the safety data sheets and labels corresponding to the affected hazardous chemicals; (2) incremental training for employees already trained under the existing OSHA hazard communication programs to ensure their familiarization with the new formats, information, and symbols that would be introduced into the workplace as a result of the proposed revisions; and in addition, (3) even though it is not directly a result of any specific requirement included in the proposed revisions, the cost for managers and administrators of hazard communication programs to become familiar with the revisions to the standard and to manage, update, and revise their programs as may be necessary to ensure compliance with the revised standard.

The estimated compliance costs presented in this analysis of the proposed revisions to the HCS are largely based on research conducted by PP&E. PP&E performed this research under contract to the Department of Labor specifically for the purpose of developing estimates of compliance costs for, and assessing the potential impacts that may be associated with, possible revisions that may be made to the OSHA HCS in order to implement the GHS.

The estimated costs of compliance with many of the provisions of the proposed standard involve wages paid for the labor hours required to fulfill the requirements. In some cases, compliance could be achieved by purchasing services or products in lieu of paying employees directly. The estimated compliance costs are intended to capture the resources required for compliance, regardless of how individual establishments may choose to achieve compliance.

Costs Associated With Chemical Classifications and Revisions to Safety Data Sheets and Labels

The proposed revisions to the OSHA HCS would continue to require firms that sell hazardous chemicals to employers to provide information about the associated hazards. Information is required to be presented in a safety data sheet (SDS) in the format specified in the revised standard, and some information is also required to be presented on product labels.

The existing OSHA HCS already requires information about hazardous chemicals to be provided in SDSs and on labels. In addition, under the existing standard, SDSs are to be revised after a manufacturer or employer becomes aware of any significant new information about the hazards of a chemical.

The proposed revisions to the standard would require chemicals to be classified into the appropriate hazard classes and categories based on the information about the chemicals that the manufacturers currently have. This information would have been assembled for purposes of conducting a hazard determination under the current HCS. In addition, the current HCS requires chemical manufacturers and importers to remain aware of developments regarding the hazards of the chemicals they produce or import in order to update the labels and SDSs for the chemicals in a timely manner. The classification of the chemicals into the hazard classes and categories under the revised provisions would not require any additional testing, studies, or research to be conducted. Manufacturers would be able to rely on the information they already have in determining how to properly classify their chemicals.

Generally, chemical manufacturers and importers periodically review, revise, and update SDSs and labels. Changes are made as necessary as information regarding specific hazards develops, new information about protective measures is ascertained, or changes are made to product information and marketing materials. Labels and SDSs must also be produced or modified when products are introduced or changed. Therefore, there is a regular cycle of change for these documents for a variety of reasons. The proposed revisions may require a more extensive change than would normally occur, but the phase-in period is such that the chemical manufacturers and importers can take advantage of the normal cycle of change to phase in the revisions for all their products over a reasonable time period. This should have less impact on normal operations than a short time period that would require all SDSs and labels to be revised at the same time.

The transition period that would be allowed by the delayed effective date for the requirement to adopt the new format should help ensure that the transition can be completed in conjunction with revisions and updates that would normally be expected to occur even without the implementation of the proposed revisions. In addition, the format required by the proposed revisions for SDSs is consistent with the format already adopted by the American National Standards Institute (ANSI) and therefore has already been implemented by many of the affected businesses.

Based on the PP&E report, OSHA developed estimates of the costs that would be associated with the classification of chemicals in accordance with the proposed criteria and with the revisions to the corresponding SDSs and labels for those chemicals. The estimated compliance costs represent the incremental costs that would need to be incurred to achieve compliance with the proposed revisions; these estimated costs would be in addition to the costs that would already be incurred to continue to remain in compliance with applicable requirements of the existing HCS.

The proposed revisions would allow for a transition period of three years following the publication of a final rule. During this period, even in the absence of any pertinent OSHA rulemaking, producers of affected chemicals would presumably be ensuring that the information provided in their SDSs and labels remains accurate and current. Producers of hazardous chemicals are generally expected to regularly review the available information regarding any hazards that may be associated with their products and to revise SDSs and labels accordingly.

In addition, for every affected product that is newly created, reformulated, mixed with new ingredients, modified with new or different types of additives, or has any changes made in the proportions of the ingredients used, the chemical producer would be required under existing OSHA and other applicable standards to review the available hazard information, to classify the chemical in accordance with

applicable hazard criteria, and to develop corresponding SDSs and labels.

The estimated costs of compliance with the proposed revisions do not include the costs associated with activities such as those described in the above paragraphs, but rather reflect only the additional costs that chemical producers would not already be expected to incur.

The estimated compliance costs associated with the proposed reclassification of hazards and changes to SDSs and labels are based on the numbers of SDSs affected. Based on the PP&E report, OSHA developed estimates of the number of potentially affected SDSs by industry, for each of the industries producing the corresponding chemicals and products (as shown in Table VII–2). Downstream users, distributors, and wholesalers are expected to continue to rely on SDSs provided by manufacturers to fulfill their obligations under the OSHA standard, as has been the practice for decades. OSHA requests comments and information from the public regarding this aspect of compliance with the standard.

The costs of compliance associated with the classification of chemicals in accordance with the proposed criteria and with the revisions to the corresponding SDSs and labels for those chemicals were based on PP&E industry interviews and estimated as follows.

Generally, for smaller establishments with relatively few chemicals affected, OSHA estimated the incremental compliance costs to be the equivalent of the cost of seven hours of time of a professional with the requisite expertise for each affected chemical, on average. Based on the PP&E report, OSHA estimated the cost of hourly compensation for a professional for this purpose to be $47. As a result, a small establishment (with fewer than 100 employees) with 20 SDSs for 20 chemicals, for example, would have estimated incremental compliance costs of $6,580 (7 hours times 20 SDSs times $47).

In larger establishments with more affected chemicals, the incremental compliance costs were estimated to consist of two parts. First, labor costs were estimated according to the size of the establishment. OSHA, based on PP&E interviews with stakeholders, estimated that entities with 100 to 499 employees would incur, on average, the equivalent of five hours of time of a professional with the requisite expertise for each affected chemical, and that entities with 500 or more employees would incur the equivalent of three hours of professional time per chemical. Based on the PP&E report, OSHA estimated the hourly compensation for a professional for this purpose to be $47.

The labor cost per SDS was estimated to be lower for larger companies based on the determination that larger companies produce more SDSs, and would therefore experience efficiencies associated with producing them. These efficiencies include economies of scale, the use of software specifically designed to classify hazards and produce SDSs, and the generally lower cost per SDS associated with many mixtures.

Second, many of these larger establishments may incur additional expenditures to purchase or modify software that can be used to classify chemicals and to produce corresponding SDSs and labels. Such software is available from a variety of vendors; the software can be purchased or used on a subscription basis. Publicly available information about the products and services being offered and sold to businesses for purposes of complying with hazard communication requirements indicates that most of the relevant vendors are aware of and prepared for an upcoming transition to the GHS, and that their products and services are or will be adapted to enable compliance with the proposed revisions. In addition, some firms may purchase custom or proprietary software from private vendors to achieve compliance with existing or proposed revisions to hazard communication requirements and for other purposes.

Regardless of the particular approach individual companies may choose to most efficiently fulfill their obligations under the existing or proposed HCS, OSHA expects that a part of the costs associated with achieving compliance with the proposed revisions would involve costs attributable to software modifications. Based on industry data obtained by PP&E, OSHA apportioned these costs on a per-SDS basis and estimated the cost per SDS to be $200, on average.

Based on the PP&E report, OSHA estimated the numbers of SDSs produced in each industry that would potentially need to be revised under the proposed standard, as shown in Table VII–2. A total of about 880,000 SDSs, one for each type of chemical produced by an individual manufacturer in the United States, were estimated to be in potential need of revision.

In developing estimates of the compliance costs associated with the proposed rule, PP&E also considered the extent to which many firms have already performed the necessary reclassifications of chemical hazards and revisions to SDSs. Some chemical hazards have already been reclassified as would be required by the proposed OSHA standard because the U.S. Department of Transportation has required such classifications as part of their regulations for the transportation of hazardous chemicals (49 CFR parts 171–180). The criteria for physical hazard classifications for purposes of transport have been internationally harmonized for some years, and these criteria formed the basis for the physical hazard criteria in the GHS. Therefore, many products intended for transport have already been classified under the new proposed physical hazard criteria as well as the existing criteria in the HCS.

Many current SDSs are already produced to varying degrees in accordance with the requirements of the proposed OSHA standard because the widely-followed ANSI industry consensus standard already reflects many of these requirements in its relevant criteria. In addition, many firms have implemented or are beginning to implement hazard reclassifications, SDS revisions, software modifications, and other changes in accordance with the requirements of the proposed OSHA standard, because these provisions are generally anticipated to be adopted as part of the implementation of the GHS in countries and regions around the world. Since some other countries are already implementing the GHS, companies in the U.S. that ship to those countries are already having to comply with the GHS for products being exported.

Research conducted by PP&E indicates that all of these factors contribute to a substantial degree of current compliance with the proposed rule, even if the existing OSHA standard remains unchanged.[13] Based on the PP&E report, OSHA estimates that, on average, about 53 percent of the gross costs that would otherwise be associated with the proposed revisions to the HCS have already been incurred by firms. However, this average is a result of very different levels of current compliance for different sizes of firms. PP&E estimated that the percentage of firms in current compliance with the proposed revisions—with the exception of employee training—is 75 percent for firms with over 500 employees; 25 percent for firms with 100 to 500 employees; 5 percent for firms with 20

[13] By current compliance, OSHA means firms that have already reclassified chemicals and prepared SDSs and labels in accordance with proposed GHS requirements and would therefore be ready to introduce these modifications at negligible additional cost when GHS becomes effective.

to 99 employees; and 1 percent for firms with fewer than 20 employees. OSHA used these percentages to reduce the number of firms reported in Table VII–2 for purposes of estimating the costs for affected firms to comply with the proposed revisions (again, with the exception of employee training).

Based on the preceding analysis, OSHA estimates an annualized cost of approximately $11 million for the classification of chemicals in accordance with the proposed criteria and for revisions to the corresponding SDSs and labels for those chemicals.[14]

OSHA requests data and information from the public that would assist the Agency in ensuring that any costs associated with the proposed revisions are accurately estimated. For example, OSHA would appreciate data from individual companies on the number of actively distributed SDSs; the number that would be affected by the GHS proposal; the time required to revise SDSs; the occupation and hourly cost of the individuals working on the revisions; and whether software would need to be modified or purchased and the costs of the modification or purchase.

As discussed below, OSHA received some comments from the public regarding the estimated costs associated with chemical classifications and revisions to safety data sheets in response to the Advance Notice for Proposed Rulemaking (ANPR) published by OSHA in the **Federal Register** on September 12, 2006 (71 FR 53617). The comments received are publicly available as part of the rulemaking record, accessible through regulations.gov, in docket OSHA–H022K–2006–0062. Relevant information submitted by the public was incorporated into the development of the methodology and estimates presented in this preliminary economic analysis.

Some commenters provided examples of cost estimates that generally support the estimates of the preliminary economic analysis. Information from other commenters provided a wide range of cost estimates. The figures presented in some comments appeared to correspond to gross costs of creating SDSs, and in other cases it was not clear whether gross or incremental costs were being presented. In general, commenters did not provide the rationale underlying their cost estimates. OSHA requests that, in submitting any data or information on compliance costs, commenters distinguish between the costs attributable to compliance with existing requirements, costs already incurred voluntarily or in compliance with another standard, and the incremental costs attributable to the new requirements associated with this rulemaking. The rationale or basis for assigning these compliance costs would also assist OSHA in developing accurate cost estimates.

One commenter, the Fragrance Materials Association of the United States, stated that its best assessment is that it would take anywhere from two to eight hours to review information and prepare new labels and safety data sheets for each hazardous chemical. (Document ID # 0061). Another commenter, the Flavor and Extract Manufacturers Association of the United States, also reported that it would take from two to eight hours to review the necessary information and produce new labels and safety data sheets for each hazardous chemical. (Document ID # 0062).

One company that produces and distributes about 4,000 different hazardous chemicals estimated that it will take four to six hours per product to prepare a GHS SDS. (Document ID # 0026).

The National Paint and Coatings Association stated that it would take approximately five hours to research the information for a product SDS/label at a small company, at a cost of about $300 per product; it also estimated that, at a medium-sized company, this same task would take from 3–5 days to 3 weeks at a cost of approximately $1,000 to $1,800, and that at a larger company, the task would be even more expensive. (Document ID # 0050).

The National Association of Chemical Distributors estimated that converting an existing SDS to the new GHS format would require about 150 hours as compared to about 100 hours currently to revise an MSDS. (Document ID # 0060).

Another commenter, Merck, which produces, imports, or distributes about 500 hazardous chemicals annually, estimated that, on average, it takes approximately 3 weeks to generate a single safety data sheet at an average cost of $1,500. Merck also stated that with a sufficient transition period of three to six years, the costs of moving to GHS would be minimal. Merck noted that the time and cost for additional changes to the GHS format should be minimal because it had already converted its SDSs to the 16-section ANSI/GHS format several years ago. (Document ID # 0072).

One trade association estimated that the costs associated with revising SDSs and labels for the 1,600 firms in the cleaning product formulator industry would total $575 million, not including the time needed to review changes to hazard classifications. The total numbers of SDSs per establishment are generally higher for the establishments represented by the trade association than the OSHA estimates for the industry category as a whole. (Document ID # 0032).

This trade association also provided some of the details underlying its cost estimates for individual companies. Cost estimates provided by the trade association for individual companies included costs per SDS as low as $30 and $80, and as high as $600 or more. One company (identified as Company #11) estimated the cost to revise the label and SDS would be $120 per product; another company (Company #2) estimated that this cost would be $2,600 per product. Some of the higher compliance cost estimates appear to be unrealistically high; for example, the estimated costs associated only with revising labels for company #3 appear to represent about 3 percent of total annual sales. While acknowledging that some firms may incur higher costs than others to revise SDSs and labels, these data generally appear to support that, at least for several firms in the industry, the costs minimally necessary to achieve compliance would be close to or less than the costs estimated by OSHA.

Several other commenters provided cost estimates related to the adoption of GHS requirements for chemical classifications and revisions to safety data sheets and labels. See, for example, Document ID #s 0015, 0018, 0024, 0036, 0079, 0105, 0107, 0116, 0128, 0141, and 0145, among others. Many estimates are broadly consistent with OSHA's estimates; in addition, some estimates appear to be similar to, but may actually be substantially lower than, OSHA's estimates to the extent they include costs attributable to the existing

[14] This annualized estimate of $11 million reflects software costs of $32 million and labor costs of $100 million multiplied by 0.082573 to annualize these costs (incurred over the first three years) over a 20-year period. The $32 million in software costs is the result of about 160,000 modified SDSs [(574,000 SDSs for large establishments × 25% not in existing compliance × 95% requiring modification) + (128,000 SDSs for establishments with 100–500 employees × 75% not in existing compliance × 25% requiring modification)] at a cost of $200 per SDS. The $100 million in labor cost is the result of about 413,000 affected SDSs multiplied by an average of 5.14 hours per SDS (from 3 to 7 hours per SDS) multiplied by $47 per hour.

The annualization factor, 0.082573, is equal to:

$[(1/3) * [(1—(1.07)^{-3})/0.07] * [0.07/((1—(1.07)^{-20})]$,

where the first term in brackets reflects the fact that these costs are assumed to be spread equally over the first three years; the second term in brackets calculates the present value of the costs, and the third term in brackets annualizes the present value of the costs over a 20-year period.

standard rather than just the incremental costs associated with the proposed modifications. Other estimates are substantially higher, but many of these also appear to represent gross costs associated with fulfilling hazard communication requirements without consideration of the incremental nature of the compliance costs for the proposed revisions, as discussed above.

OSHA requests additional comments and information from affected establishments and from the public regarding the nature of the incremental costs of classifying chemicals and modifying SDSs and labels associated with the proposed revisions. Comments would be most helpful to the Agency if they included the underlying data and methodology used to develop the cost estimates.

Management Familiarization and Other Management-Related Costs

The implementation of GHS as part of the OSHA HCS would require that employees currently covered by the standard become familiar with the new system. The nature and extent of the familiarization required would vary depending on an employee's job and business. OSHA considered separately various training needs that may be imposed by the proposed revisions.

Although it would not be explicitly required by the proposed revisions, some establishments may choose to provide training to managers and other employees that are not directly covered by the training requirements of the HCS. Other management-related costs may include revisions, if necessary, to existing hazard communication programs; promoting awareness of and providing information about the revisions to hazard communication programs; coordinating and integrating changes to hazard communication programs with other programs, processes, and functions; serving as an in-house resource for supporting the general adoption of GHS; creating supplemental capacity for providing training and assistance to affected employees; and other ancillary costs for company-specific changes and general hazard communication program administration that may be incurred at some establishments.

These costs could be considered discretionary in that they would not be explicitly required by the proposed regulatory provisions; however, OSHA recognizes that these costs may be incurred in practice due to the manner in which some companies have implemented and integrated hazard communication programs in their facilities. The particular circumstances that would cause these costs to be incurred partly reflect the fact that hazard communications programs often are not implemented solely for purposes of complying with the OSHA standard, but may serve a variety of other purposes that are part of and that benefit the overall production process.

In some cases, health and safety supervisors, logistics personnel, and other personnel involved in administering, implementing, and ensuring compliance with the requirements of the HCS in affected establishments would be expected by company managers to become familiar with the proposed revisions. The responsibilities of these employees may include modifying written hazard communication programs as necessary, reviewing and preparing training materials, and training new and existing employees regarding the changes. An estimated 8 hours of time, or an equivalent cost, would be associated with the necessary familiarization and implementation of revisions to hazard communication programs in affected establishments in the manufacturing sector.

In many potentially affected establishments that do not produce SDSs, and that have few affected chemicals or few affected employees, a very basic hazard communication program may achieve compliance with the OSHA standard. For these establishments, outside of the manufacturing sector, that have a health and safety supervisor, the incremental management and administrative costs associated with the proposed revisions to the OSHA standard were estimated to be 2 hours per establishment. For establishments outside of the manufacturing sector that do not have a health and safety supervisor, OSHA estimated that these costs would be negligible.

Based on the preceding analysis, OSHA estimates an annualized cost of approximately $42 million for management familiarization and other related management activities in response to GHS.[15]

OSHA requests additional comments and information from affected establishments and from the public regarding the nature of the incremental management familiarization costs associated with the proposed revisions.

Costs Associated With Training Employees

Production employees who are currently covered by and trained under the provisions of the existing HCS would need to receive some additional training to become familiar with the proposed changes to SDSs and labels.

In many potentially affected establishments that do not produce SDSs, and that have few affected chemicals or few affected employees, a very basic hazard communication program may achieve compliance with the OSHA standard. In these establishments, the incremental employee training costs associated with the proposed revisions to the OSHA standard may be relatively small. In other cases, employers may be able to integrate the necessary training into existing training programs and other methods of distributing safety and health information to employees, and thus may not incur much additional cost. Nevertheless, in order to adequately reflect the opportunity costs of devoting time and resources to the necessary training, and in order to ensure that the estimated compliance costs reflect an adequate emphasis on the familiarization with the proposed new hazard communication system, a more substantial training cost was estimated.

An estimated 30 minutes of training, in addition to training that would otherwise be received, would provide adequate time for employees to become familiar with the new system. For some occupations for which the use of hazardous chemicals is minimal and the number of hazards for which training is needed is small, OSHA estimated that 15 minutes of training would be sufficient. For some occupations in the transportation sector, where GHS pictograms are already in use, OSHA estimated that only 5 minutes of training would be needed. A complete occupation-by-occupation review of OSHA's estimates is provided in the PP&E report.

[15] This annualized estimate of $42 million reflects total costs of $490 million multiplied by 0.085332 to annualize these costs (incurred over the first two years) over a 20-year period. The $490 million is equal to $5.9 million for health and safety managers (5,900 affected managers × $1000 per manager) plus $16.4 million for logistics personnel in manufacturing (43,600 affected logistics persons × 8 hours × $47 per hour) plus $116 million for health and safety supervisors in manufacturing (309,000 affected health and safety supervisors in manufacturing × 8 hours × $47 per hour) plus $351.7 million for health and safety supervisors in non-manufacturing (3,740,000 affected H&S supervisors in non-manufacturing × 2 hours × $47 per hour).

The annualization factor, 0.085332, is equal to:

$[(\frac{1}{2}) * [(1-(1.07)^{-2})/0.07] * [0.07/((1-(1.07)^{-20})]$,

where the first term in brackets reflects the fact that these costs are assumed to be spread equally over the first two years; the second term in brackets calculates the present value of the costs, and the third term in brackets annualizes the present value of the costs over a 20-year period.

The training costs associated with the proposed revisions are expected to be incurred during the transition to the new hazard communication system. Compliance with the proposed revisions is not expected to involve any additional training costs after the transition period.

Based on the preceding analysis, OSHA estimates that the annualized cost of training employees in response to GHS would be approximately $44 million.[16]

The proposed revisions may result in reductions in the costs associated with providing training for employees as required by the existing OSHA HCS. Affected companies could save considerable time and effort in training new employees in the future. The savings may be attributable in part to reducing or eliminating the need to explain the different types of formats used to convey hazard information and the different types of information included in the contents of SDSs and labels. OSHA did not quantify these potential savings in training costs associated with the proposed revisions.

[16] This annualized estimate of $44 million reflects total costs of $519 million multiplied by 0.085332 to annualize these costs (incurred over the first two years) over a 20-year period. The $519 million is equal to $444 million in employee hours to receive training (40.6 million affected employees × 0.42 hours × $26 per hour) plus $75 million in management hours to provide the training (3.8 million managers × 0.42 hours × $47 per hour). The 0.42 hours is the average estimated training time for all affected employees, with most receiving 30 minutes of training, some receiving 15 minutes of training, and a very few receiving 5 minutes of training. The total number of managers providing training (3.8 million) would, on average, be equal to approximately 9.4 percent of the number of employees receiving training in response to GHS.

OSHA requests additional comments and information from affected establishments and from the public regarding the nature of the incremental training costs associated with the proposed revisions.

Summary of Unit Cost Estimates

The following list provides a summary of the input estimates underlying the calculation of the compliance costs. It should be noted that these costs are intended to reflect only the incremental costs that would be incurred in addition to the associated costs that would be incurred in the absence of the proposed revisions to the standard. Except for employee training, these costs would apply only to those businesses not already in compliance with the proposed revisions. OSHA requests comments and information from the public regarding these estimates.

Reclassifying chemicals and modifying SDSs and labels:

- Large establishments (over 500 employees): An average of 3 hours per SDS; in addition, for 95 percent of establishments, an average of $200 per SDS for software modifications.
- Medium establishments (100–499 employees): An average of 5 hours per SDS; in addition, for 25 percent of establishments, an average of $200 per SDS for software modifications.
- Small establishments (1–99 employees): An average of 7 hours per SDS.

Management familiarization and other costs:

- Eight hours for health and safety managers and logistics personnel in the manufacturing sector.
- Two hours for each hazard communication program manager not in the manufacturing sector.

Employee training:

- 30 minutes per production employee in most industries;
- 15 minutes in occupations exposed to few hazardous chemicals and types of hazards;
- 5 minutes per employee in some occupations where GHS-type pictograms are already in use.

Appendix to Section F: Total Non-annualized Costs of Compliance

Table VII–4 shows the total non-annualized (non-discounted) compliance costs by industry and by cost element that are estimated to be incurred during the three-year phase-in of the proposed revisions. Except for employee training, these estimates include no costs for businesses already in compliance with the proposed revisions.

As shown in Table VII–4, the total cost of compliance with the proposed rulemaking over the course of the transition period of three years is estimated to be about $1.14 billion. This amount also represents the total non-annualized cost of compliance for the proposed rule. Of this amount, the cost of chemical hazard reclassification and revision of SDSs and labels is an estimated $132 million, the cost of training employees is an estimated $519 million, and the cost of management familiarization and other costs such as updates to hazard communication programs is an estimated $490 million.

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Table VII-4
Total Costs of Compliance During Transition Period

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Costs During Transition Period
11	**Agriculture, Forestry, Fishing & Hunting**				
113	Forestry & Logging	$0	$347,222	$780,576	$1,127,798
114	Fishing, Hunting and Trapping	$0	$36,903	$70,406	$107,309
115	Support Activities for Ag & Forestry	$0	$173,376	$348,458	$521,834
211	**Oil and Gas Extraction**				
211111	Crude petroleum & natural gas extraction	$13,683,017	$859,919	$2,536,288	$17,079,223
211112	Natural gas liquid extraction	$1,057,112	$157,096	$79,037	$1,293,245
212	Mining (except Oil & Gas)	$0	$1,172,200	$677,270	$1,849,470
213	Support Activities for Mining	$0	$771,214	$801,726	$1,572,940
22	**Utilities**				
2211	Electric Power Gen, Trans & Distrib	$0	$4,039,642	$4,392,355	$8,431,997
2212	Natural Gas Distribution	$0	$610,180	$1,239,756	$1,849,936
2213	Water, Sewage, & Other Systems	$0	$487,243	$2,318,357	$2,805,600
23	**Construction**				
236	Construction of Buildings	$0	$14,127,779	$21,281,036	$35,408,815
237	Heavy Construction	$0	$5,431,571	$3,755,206	$9,186,777
238	Special Trade Contractors	$0	$31,405,551	$41,734,308	$73,139,859
31	**Manufacturing**				
311	Food Manufacturing	$0	$17,525,112	$9,262,352	$26,787,464
312	Beverage &Tobacco Prod. Manuf.	$0	$1,510,378	$1,118,186	$2,628,564
313	Textile Mills	$0	$3,439,290	$1,481,366	$4,920,656
314	Textile Product Mills	$0	$2,465,977	$2,751,043	$5,217,020
315	Apparel Manufacturing	$0	$4,419,364	$5,127,616	$9,546,981
316	Leather & Allied Product Manufac.	$0	$601,109	$586,348	$1,187,457

Table VII-4
Total Costs of Compliance During Transition Period
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Costs During Transition Period
321	Wood Product Manufacturing	$0	$6,820,265	$6,334,612	$13,154,877
322	Paper Manufacturing	$0	$5,939,770	$1,820,658	$7,760,428
323	Printing and Related Support	$0	$8,421,055	$13,850,754	$22,271,809
324	**Petroleum & Coal Prod. Manufac.**				
324110	Petroleum refineries	$3,365,616	$582,441	$101,363	$4,049,420
324121	Asphalt paving mixture & block mfg	$13,616,926	$161,706	$364,760	$14,143,392
324122	Asphalt shingle & coating materials mfg	$2,326,520	$150,427	$72,138	$2,549,086
324191	Petroleum lubricating oil & grease mfg	$2,506,180	$82,290	$126,265	$2,714,736
324199	All other petroleum & coal products mfg	$699,030	$33,783	$28,594	$761,407
325	**Chemical Manufacturing**				
325110	Petrochemical mfg	$569,248	$79,327	$18,692	$667,267
325120	Industrial gas mfg	$454,353	$68,254	$116,764	$639,371
325131	Inorganic dye & pigment mfg	$106,009	$82,972	$32,052	$221,033
325132	Synthetic organic dye & pigment mfg	$475,748	$61,046	$49,177	$585,971
325181	Alkalies & chlorine mfg	$45,443	$48,701	$13,649	$107,792
325182	Carbon black mfg	$27,884	$17,764	$7,389	$53,036
325188	All other basic inorganic chemical mfg	$2,134,353	$472,526	$208,694	$2,815,573
325191	Gum & wood chemical mfg	$376,919	$20,781	$21,622	$419,322
325192	Cyclic crude & intermediate mfg	$71,062	$45,842	$13,389	$130,293
325193	Ethyl alcohol mfg	$161,482	$20,459	$31,742	$213,684
325199	All other basic organic chemical mfg	$3,146,780	$649,182	$226,223	$4,022,185
325211	Plastics material & resin mfg	$8,567,325	$589,753	$251,756	$9,408,833

Table VII-4
Total Costs of Compliance During Transition Period
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Costs During Transition Period
325212	Synthetic rubber mfg	$248,758	$120,218	$65,183	$434,159
325221	Cellulosic organic fiber mfg	$6,539	$28,466	$8,609	$43,614
325222	Noncellulosic organic fiber mfg	$0	$292,312	$52,378	$344,690
325311	Nitrogenous fertilizer mfg	$46,499	$49,312	$60,735	$156,546
325312	Phosphatic fertilizer mfg	$12,665	$73,158	$16,396	$102,218
325314	Fertilizer (mixing only) mfg	$754,884	$92,632	$235,101	$1,082,617
325320	Pesticide & other agricultural chemical mfg	$846,416	$120,601	$94,001	$1,061,017
325411	Medicinal & botanical mfg	$738,431	$158,550	$150,991	$1,047,972
325412	Pharmaceutical preparation mfg	$1,960,544	$967,694	$367,473	$3,295,710
325413	In-vitro diagnostic substance mfg	$2,736,993	$241,055	$84,047	$3,062,095
325414	Biological product (except diagnostic) mfg	$468,550	$213,109	$124,982	$806,640
325510	Paint & coating mfg	$11,795,224	$322,408	$598,611	$12,716,243
325520	Adhesive mfg	$3,902,405	$207,199	$259,456	$4,369,060
325611	Soap & other detergent mfg	$2,658,060	$252,917	$342,952	$3,253,929
325612	Polish & other sanitation good mfg	$2,168,139	$180,504	$303,476	$2,652,119
325613	Surface active agent mfg	$875,171	$51,511	$72,202	$998,884
325620	Toilet preparation mfg	$2,870,202	$568,419	$366,471	$3,805,093
325910	Printing ink mfg	$6,569,964	$96,486	$194,126	$6,860,576
325920	Explosives mfg	$303,322	$74,459	$33,264	$411,045
325991	Custom compounding of purchased resin	$876,749	$225,811	$284,282	$1,386,842
325992	Photographic film, paper, plate, & chemical mfg	$596,584	$293,452	$167,487	$1,057,522
325998	Miscellaneous chemical product & preparation mfg	$7,395,067	$325,592	$516,165	$8,236,824

Table VII-4
Total Costs of Compliance During Transition Period
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Costs During Transition Period
326	Plastics and Rubber Products Man.	$7,847,631	$11,160,366	$5,434,099	$24,442,096
327	Nonmetallic Mineral Prod. Manufac.	$8,065,150	$5,943,265	$5,422,776	$19,431,191
331	Primary Metal Manufacturing	$3,081,580	$6,103,687	$2,311,505	$11,496,772
332	Fabricated Metal Prod. Manufac.	$0	$18,736,880	$23,237,842	$41,974,721
333	Machinery Manufacturing	$0	$11,374,364	$10,316,997	$21,691,362
334	Computer & Electronic Prod Man.	$0	$9,033,957	$5,852,080	$14,886,037
335	Electric Equipment, Appliance Man.	$0	$5,661,876	$2,378,439	$8,040,316
336	Transportation Equip. Manufacturing	$0	$17,455,530	$4,922,170	$22,377,699
337	Furniture & Related Product Man.	$0	$7,241,389	$8,428,727	$15,670,116
339	Miscellaneous Manufacturing	$11,733,200	$6,873,929	$11,073,665	$29,680,793
42	**Wholesale Trade**				
423	Durable Goods	$0	$7,874,856	$15,487,346	$23,362,202
424	Nondurable Goods	$0	$5,655,530	$8,977,094	$14,632,624
44-45	**Retail Trade**				
441	Motor vehicle & parts dealers	$0	$7,527,359	$10,893,190	$18,420,549
442	Furniture & home furnishings stores	$0	$1,189,255	$2,999,352	$4,188,607
443	Electronics & appliance stores	$0	$409,951	$1,055,808	$1,465,759
444	Building material & garden equipment & dealers	$0	$2,242,308	$4,959,628	$7,201,936
445	Food & beverage stores	$0	$3,364,428	$6,317,082	$9,681,510
446	Health & personal care stores	$0	$6,627,927	$7,761,956	$14,389,883
447	Gasoline stations	$0	$1,851,542	$4,768,338	$6,619,880
448	Clothing & clothing accessories stores	$0	$346,898	$893,376	$1,240,274

Table VII-4
Total Costs of Compliance During Transition Period
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Costs During Transition Period
451	Sporting goods, hobby, book, & music stores	$0	$476,725	$1,227,734	$1,704,459
452	General merchandise stores	$0	$1,954,062	$3,818,468	$5,772,530
453	Miscellaneous store retailers	$0	$939,338	$2,419,090	$3,358,428
454	Nonstore retailers	$0	$1,013,374	$1,957,174	$2,970,548
48-49	**Transportation & Warehousing**				
481	Air transportation	$0	$688,140	$366,506	$1,054,646
483	Water transportation	$0	$256,646	$172,584	$429,230
484	Truck transportation	$0	$5,219,830	$7,187,616	$12,407,446
485	Transit & ground passenger transportation	$0	$491,768	$769,954	$1,261,722
486	Pipeline transportation	$0	$175,564	$250,980	$426,544
487	Scenic & sightseeing transportation	$0	$54,398	$95,786	$150,184
488	Support activities for transportation	$0	$1,653,084	$2,468,722	$4,121,806
492	Couriers & messengers	$0	$1,290,104	$855,682	$2,145,786
493	Warehousing & storage	$0	$812,481	$717,126	$1,529,607
51	**Information**				
511	Publishing industries	$0	$641,493	$1,192,108	$1,833,601
512	Motion picture & sound recording industries	$0	$142,127	$366,036	$508,163
513	Broadcasting & telecommunications	$0	$1,340,066	$3,451,116	$4,791,182
514	Information services & data processing services	$0	$236,421	$608,838	$845,259
52	**Finance & Insurance**				
521	Monetary authorities - central bank	$0	$0	$0	$0
522	Credit intermediation & related activities	$0	$220,676	$568,324	$789,000

Table VII-4
Total Costs of Compliance During Transition Period
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Costs During Transition Period
523	Securities intermediation & related activities	$0	$81,644	$210,278	$291,922
524	Insurance carriers & related activities	$0	$1,553,569	$4,001,016	$5,554,585
525	Funds, trusts, & other financial vehicles	$0	$27,225	$70,124	$97,349
53	**Real Estate & Rental and Leasing**				
531	Real estate	$0	$4,615,543	$10,154,632	$14,770,175
532	Rental & leasing services	$0	$2,011,076	$4,464,060	$6,475,136
533	Lessors of intangibles, except copyrighted works	$0	$24,196	$60,818	$85,014
54	**Professional, Scientific, & Technical**				
5411	Legal services	$0	$51,540	$132,728	$184,268
5412	Accounting, tax, bookkeeping, & payroll services	$0	$522,866	$1,346,550	$1,869,416
5413	Architectural, engineering, & related services	$0	$980,735	$2,419,278	$3,400,013
5414	Specialized design services	$0	$249,943	$583,552	$833,495
5415	Computer systems design & related services	$0	$185,869	$478,648	$664,517
5416	Management, scientific, & tech consulting services	$0	$829,815	$1,862,516	$2,692,331
5417	Scientific R&D Serv.	$0	$396,555	$610,154	$1,006,709
5418	Advertising & related services	$0	$484,796	$1,044,152	$1,528,948
5419	Other professional, scientific, & technical services	$0	$4,286.510	$6,796,482	$11,082,992
55	**Management of Companies**				
551111	Offices of bank holding companies	$0	$50,226	$95,974	$146,200
551112	Offices of other holding companies	$0	$264,405	$496,884	$761,289
551114	Corporate, subsidiary, & regional managing offices	$0	$2,619,232	$3,248,452	$5,867.684

Table VII-4
Total Costs of Compliance During Transition Period
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Costs During Transition Period
56	**Adm and Support & Waste Management**				
561	Administrative and Support Serv.	$0	$32,331,965	$25,922,756	$58,254,721
562	Waste management & Remediation Serv.	$0	$1,696,637	$1,663,612	$3,360,249
61	**Educational Services**				
6111	Elementary & secondary schools	$0	$923,342	$1,503,906	$2,427,248
6112	Junior colleges	$0	$51,746	$67,022	$118,768
6113	Colleges, universities, & profesional schools	$0	$1,785,754	$259,722	$2,045,476
6114	Business schools, & computer & mgmt training	$0	$10,398	$26,790	$37,188
6115	Technical & trade schools	$0	$72,860	$182,172	$255,032
6116	Other schools & instruction	$0	$78,773	$202,852	$281,625
6117	Educational support services	$0	$36,461	$93,906	$130,367
62	**Healthcare and Social Assistance**				
621	Ambulatory health care services	$0	$51,986,365	$45,848,218	$97,834,583
622	Hospitals	$0	$53,071,728	$711,486	$53,783,214
623	Nursing & residential care facilities	$0	$26,224,786	$6,382,600	$32,607,386
624	Social assistance	$0	$5,190,700	$9,590,632	$14,781,332
71	**Arts, Entertainment & Recreation**				
711	Performing arts, spectator sports, etc.	$0	$474,519	$758,956	$1,233,475
712	Museums, historical sites, & similar institutions	$0	$136,290	$237,820	$374,110
713	Amusement, gambling, & recreation industries	$0	$2,303,600	$3,334,838	$5,638,438

Table VII-4
Total Costs of Compliance During Transition Period
(Continued)

NAICS Code	Industry	Cost of Reclassification and Revision of SDSs and Labels	Cost of Training Employees	Management Familiarization and Other Costs	Total Costs During Transition Period
72	**Accommodation & Food Services**				
721	Accommodation	$0	$5,899,440	$5,428,876	$11,328,316
722	Food services & drinking places	$0	$1,554,247	$4,002,708	$5,556,955
81	**Other Services (except Public Adm.)**				
811	Repair & maintenance	$0	$12,882,110	$21,919,766	$34,801,876
812	Personal & laundry services	$0	$5,893,890	$12,969,932	$18,863,822
813	Religious/grantmaking/civic/professional	$0	$3,342,423	$7,711,008	$11,053,431
99	**State and Local Government** (about half covered by OSHA standards)				
9992	State Government	$0	$3,455,206	$1,198,500	$4,653,706
9993	Local Government	$0	$17,432,651	$1,001,570	$18,434,221
	Total	**$131,949,731**	**$519,238,565**	**$489,511,630**	**$1,140,699,926**

Note: Costs are expressed in 2007 dollars
Source: Office of Regulatory Analysis, OSHA, based on PP&E (2008)

BILLING CODE 4510–26–C

G. Economic Feasibility and Impacts

This section presents OSHA's analysis of the potential economic impacts of the proposal and an assessment of economic feasibility. A separate analysis of the potential economic impacts on small entities (as defined in accordance with the criteria established by the Small Business Administration) and on very small entities (those with fewer than 20 employees) is presented in the following section as part of the Initial Regulatory Flexibility Screening Analysis, conducted in accordance with the criteria laid out in the Regulatory Flexibility Act.

In order to assess the nature and magnitude of the economic impacts associated with compliance with the proposal, OSHA developed quantitative estimates of the potential economic impact of the requirements on each of the affected industry sectors. The estimated costs of compliance presented in Section F of this economic analysis were compared with industry revenues and profits to provide a measure of potential economic impacts.

Table VII–5 presents data on revenues and profits for each affected industry sector, along with the corresponding estimated annualized costs of compliance in each sector. Potential impacts in the table are represented by the ratios of compliance costs to revenues and compliance costs to profits.

As is evident from the data and estimates presented in Table VII–5, the costs of compliance for the proposal are not large in relation to the corresponding revenues and profits in each of the industry sectors. The estimated costs of compliance represent about 0.0004 percent of revenues and about 0.00712 percent of profits on average across all entities; compliance costs do not represent more than 0.02 percent of revenues or more than 0.3 percent of profits in any individual industry sector.

The Agency preliminarily concludes that the proposal is economically feasible for the affected industries. In general, the courts have held that a standard is economically feasible if there is a reasonable likelihood that the estimated costs of compliance ''will not threaten the existence or competitive structure of an industry, even if it does portend disaster for some marginal firms'' (United Steelworkers of America v. Marshall, 647 F.2d 1189, 1272 (D.C. Cir. 1980)). The potential impacts of employer costs associated with achieving compliance with the proposal fall well within the bounds of economic feasibility in each industry sector. OSHA does not expect compliance with the requirements of the proposal to threaten the viability of employers or the competitive structure of any of the affected industry sectors.

The economic impact of the proposal is most likely to consist of a very small increase in prices for affected hazardous chemicals, of about 0.0004 percent on average. Chemical manufacturing companies, all of whom must incur the costs of compliance unless they are already doing so, should be able to pass through costs to customers. The additional costs of a one-time change to revised SDS and labeling criteria are extremely small in relation to the value of the corresponding products, and there are generally no economic substitutes, or alternatives, that would not be subject to the same requirements. It is unlikely that a price increase of this magnitude would significantly alter the types or amounts of goods and services demanded by the public or any other affected customers or intermediaries. If the compliance costs of the proposal can be substantially recouped with a minimal increase in prices, there would be little or no effect on profits.

BILLING CODE 4510–26–P

Table VII-5
Potential Economic Impacts

NAICS Code	Industry	Total Annualized Costs	Revenues (Thousands of Dollars)	Profits (Thousands of Dollars)	Costs as a Percent of Revenues	Costs as a Percent of Profits
11	**Agriculture, Forestry, Fishing & Hunting**					
113	Forestry & Logging	$96,237	$11,235,337	$358,643	0.0009%	0.0268%
114	Fishing, Hunting and Trapping	$9,157	$1,974,301	$66,735	0.0005%	0.0137%
115	Support Activities for Ag & Forestry	$44,529	$12,663,500	$427,536	0.0004%	0.0104%
211	**Oil and Gas Extraction**					
211111	Crude petroleum & natural gas extraction	$1,419,643	$111,285,360	$11,799,999	0.0013%	0.0120%
211112	Natural gas liquid extraction	$107,438	$72,490,930	$6,532,998	0.0001%	0.0016%
212	Mining (except Oil & Gas)	$157,819	$47,733,102	$4,295,979	0.0003%	0.0037%
213	Support Activities for Mining	$134,222	$28,960,730	$1,448,037	0.0005%	0.0093%
22	**Utilities**					
2211	Electric Power Gen, Trans & Distrib	$719,520	$320,502,670	$9,615,080	0.0002%	0.0075%
2212	Natural Gas Distribution	$157,859	$67,275,310	$2,018,259	0.0002%	0.0078%
2213	Water, Sewage, & Other Systems	$239,408	$8,298,663	$414,933	0.0029%	0.0577%
23	**Construction**					
236	Construction of Buildings	$3,021,507	$534,991,934	$26,749,597	0.0006%	0.0113%
237	Heavy Construction	$783,927	$174,384,008	$6,975,360	0.0004%	0.0112%
238	Special Trade Contractors	$6,241,175	$468,167,745	$19,361,840	0.0013%	0.0322%
31	**Manufacturing**					
311	Food Manufacturing	$2,285,830	$457,521,297	$17,362,093	0.0005%	0.0132%
312	Beverage &Tobacco Prod. Manuf.	$224,301	$107,946,351	$10,623,677	0.0002%	0.0021%
313	Textile Mills	$419,890	$43,236,210	$6,080,437	0.0010%	0.0069%
314	Textile Product Mills	$445,179	$35,012,642	$4,478,866	0.0013%	0.0099%
315	Apparel Manufacturing	$814,664	$48,399,376	$3,201,298	0.0017%	0.0254%
316	Leather & Allied Product Manufac.	$101,328	$7,106,166	$408,472	0.0014%	0.0248%
321	Wood Product Manufacturing	$1,122,533	$88,649,041	$1,973,491	0.0013%	0.0569%

Table VII-5
Potential Economic Impacts
(Continued)

NAICS Code	Industry	Total Annualized Costs	Revenues (Thousands of Dollars)	Profits (Thousands of Dollars)	Costs as a Percent of Revenues	Costs as a Percent of Profits
322	Paper Manufacturing	$662,213	$154,746,086	$5,668,851	0.0004%	0.0117%
323	Printing and Related Support	$1,900,499	$93,105,255	$3,903,103	0.0020%	0.0487%
324	**Petroleum & Coal Prod. Manufac.**					
324110	Petroleum refineries	$336,257	$425,334,802	$29,170,039	0.0001%	0.0012%
324121	Asphalt paving mixture & block mfg	$1,169,305	$7,327,950	$391,283	0.0160%	0.2988%
324122	Asphalt shingle & coating materials mfg	$211,098	$6,483,151	$406,967	0.0033%	0.0519%
324191	Petroleum lubricating oil & grease mfg	$224,737	$5,659,274	$325,292	0.0040%	0.0691%
324199	All other petroleum & coal products mfg	$63,043	$1,402,010	$69,589	0.0045%	0.0906%
325	**Chemical Manufacturing**					
325110	Petrochemical mfg	$55,368	$20,967,769	$2,083,973	0.0003%	0.0027%
325120	Industrial gas mfg	$53,305	$5,780,466	$563,862	0.0009%	0.0095%
325131	Inorganic dye & pigment mfg	$18,569	$3,642,670	$347,775	0.0005%	0.0053%
325132	Synthetic organic dye & pigment mfg	$48,689	$2,419,490	$223,487	0.0020%	0.0218%
325181	Alkalies & chlorine mfg	$9,073	$2,070,537	$196,164	0.0004%	0.0046%
325182	Carbon black mfg	$4,449	$1,015,512	$80,980	0.0004%	0.0055%
325188	All other basic inorganic chemical mfg	$234,368	$16,313,991	$1,555,895	0.0014%	0.0151%
325191	Gum & wood chemical mfg	$34,741	$1,003,423	$94,642	0.0035%	0.0367%
325192	Cyclic crude & intermediate mfg	$10,922	$4,833,694	$479,191	0.0002%	0.0023%
325193	Ethyl alcohol mfg	$17,788	$2,096,502	$166,960	0.0008%	0.0107%
325199	All other basic organic chemical mfg	$334,537	$46,874,101	$4,574,667	0.0007%	0.0073%
325211	Plastics material & resin mfg	$779,231	$48,215,976	$4,656,112	0.0016%	0.0167%
325212	Synthetic rubber mfg	$36,361	$5,637,687	$536,196	0.0006%	0.0068%
325221	Cellulosic organic fiber mfg	$3,704	$637,425	$50,323	0.0006%	0.0074%

Table VII-5
Potential Economic Impacts
(Continued)

NAICS Code	Industry	Total Annualized Costs	Revenues (Thousands of Dollars)	Profits (Thousands of Dollars)	Costs as a Percent of Revenues	Costs as a Percent of Profits
325222	Noncellulosic organic fiber mfg	$29,413	$8,839,294	$714,349	0.0003%	0.0041%
325311	Nitrogenous fertilizer mfg	$13,230	$3,335,111	$317,948	0.0004%	0.0042%
325312	Phosphatic fertilizer mfg	$8,688	$3,997,496	$395,032	0.0002%	0.0022%
325314	Fertilizer (mixing only) mfg	$90,299	$3,070,891	$257,313	0.0029%	0.0351%
325320	Pesticide & other agricultural chemical mfg	$88,203	$10,402,745	$995,673	0.0008%	0.0089%
325411	Medicinal & botanical mfg	$87,388	$12,650,827	$1,976,697	0.0007%	0.0044%
325412	Pharmaceutical preparation mfg	$275,819	$104,772,298	$10,248,434	0.0003%	0.0027%
325413	In-vitro diagnostic substance mfg	$253,741	$13,942,412	$1,367,932	0.0018%	0.0185%
325414	Biological product (except diagnostic) mfg	$67,539	$11,958,433	$1,161,619	0.0006%	0.0058%
325510	Paint & coating mfg	$1,052,551	$20,395,969	$1,891,272	0.0052%	0.0557%
325520	Adhesive mfg	$362,051	$7,361,310	$660,739	0.0049%	0.0548%
325611	Soap & other detergent mfg	$270,329	$17,928,741	$1,644,627	0.0015%	0.0164%
325612	Polish & other sanitation good mfg	$220,327	$10,054,392	$935,831	0.0022%	0.0235%
325613	Surface active agent mfg	$82,822	$5,731,687	$542,155	0.0014%	0.0153%
325620	Toilet preparation mfg	$316,775	$31,679,852	$3,039,016	0.0010%	0.0104%
325910	Printing ink mfg	$567,295	$4,174,624	$373,220	0.0136%	0.1520%
325920	Explosives mfg	$34,238	$1,111,244	$103,754	0.0031%	0.0330%
325991	Custom compounding of purchased resin	$115,922	$7,431,222	$660,560	0.0016%	0.0175%
325992	Photographic film, paper, plate, & chemical mfg	$88,594	$14,261,839	$1,396,003	0.0006%	0.0063%
325998	Miscellaneous chemical product & preparation mfg	$682,456	$13,601,631	$1,213,892	0.0050%	0.0562%
326	Plastics and Rubber Products Man.	$2,064,037	$169,377,747	$8,036,289	0.0012%	0.0257%
327	Nonmetallic Mineral Prod. Manufac.	$1,635,846	$95,442,761	$3,597,010	0.0017%	0.0455%
331	Primary Metal Manufacturing	$972,539	$139,461,013	$5,449,204	0.0007%	0.0178%

Table VII-5
Potential Economic Impacts
(Continued)

NAICS Code	Industry	Total Annualized Costs	Revenues (Thousands of Dollars)	Profits (Thousands of Dollars)	Costs as a Percent of Revenues	Costs as a Percent of Profits
332	Fabricated Metal Prod. Manufac.	$3,581,790	$248,973,057	$14,000,518	0.0014%	0.0256%
333	Machinery Manufacturing	$1,850,969	$251,308,533	$9,581,635	0.0007%	0.0193%
334	Computer & Electronic Prod Man.	$1,270,256	$379,931,227	$17,984,765	0.0003%	0.0071%
335	Electric Equipment, Appliance Man.	$686,097	$181,805,371	$8,353,902	0.0004%	0.0082%
336	Transportation Equip. Manufacturing	$1,909,535	$1,021,093,021	$22,567,653	0.0002%	0.0085%
337	Furniture & Related Product Man.	$1,337,163	$73,497,087	$2,939,883	0.0018%	0.0455%
339	Miscellaneous Manufacturing	$2,500,342	$118,090,424	$4,723,617	0.0021%	0.0529%
42	**Wholesale Trade**					
423	Durable Goods	$1,993,545	$2,332,184,855	$67,395,831	0.0001%	0.0030%
424	Nondurable Goods	$1,248,632	$2,157,881,220	$74,888,255	0.0001%	0.0017%
44-45	**Retail Trade**					
441	Motor vehicle & parts dealers	$1,571,863	$813,208,907	$16,264,178	0.0002%	0.0097%
442	Furniture & home furnishings stores	$357,422	$97,073,126	$3,230,582	0.0004%	0.0111%
443	Electronics & appliance stores	$125,076	$92,280,756	$3,315,716	0.0001%	0.0038%
444	Building material & garden equipment & dealers	$614,556	$288,435,295	$12,675,063	0.0002%	0.0048%
445	Food & beverage stores	$826,143	$464,412,506	$9,288,250	0.0002%	0.0089%
446	Health & personal care stores	$1,227,918	$186,448,806	$6,821,530	0.0007%	0.0180%
447	Gasoline stations	$564,888	$238,083,074	$8,151,176	0.0002%	0.0069%
448	Clothing & clothing accessories stores	$105,835	$170,396,483	$8,096,545	0.0001%	0.0013%
451	Sporting goods, hobby, book, & music stores	$145,445	$76,687,429	$2,300,623	0.0002%	0.0063%
452	General merchandise stores	$492,582	$444,604,851	$17,784,194	0.0001%	0.0028%
453	Miscellaneous store retailers	$286,582	$97,907,211	$3,291,039	0.0003%	0.0087%
454	Nonstore retailers	$253,483	$164,914,253	$6,166,255	0.0002%	0.0041%

Table VII-5
Potential Economic Impacts
(Continued)

NAICS Code	Industry	Total Annualized Costs	Revenues (Thousands of Dollars)	Profits (Thousands of Dollars)	Costs as a Percent of Revenues	Costs as a Percent of Profits
48-49	**Transportation & Warehousing**					
481	Air transportation	$89,995	$107,699,651	$3,230,990	0.0001%	0.0028%
483	Water transportation	$36,627	$22,088,696	$1,104,435	0.0002%	0.0033%
484	Truck transportation	$1,058,753	$166,722,008	$4,260,349	0.0006%	0.0249%
485	Transit & ground passenger transportation	$107,665	$19,127,060	$496,892	0.0006%	0.0217%
486	Pipeline transportation	$36,398	$45,053,289	$7,520,512	0.0001%	0.0005%
487	Scenic & sightseeing transportation	$12,816	$1,762,260	$40,596	0.0007%	0.0316%
488	Support activities for transportation	$351,722	$60,079,175	$1,559,971	0.0006%	0.0225%
492	Couriers & messengers	$183,104	$58,881,643	$1,718,986	0.0003%	0.0107%
493	Warehousing & storage	$130,525	$17,808,341	$712,334	0.0007%	0.0183%
51	**Information**					
511	Publishing industries	$270,135	$52,072,418	$3,359,109	0.0005%	0.0080%
512	Motion picture & sound recording industries	$43,363	$73,280,977	$4,396,859	0.0001%	0.0010%
513	Broadcasting & telecommunications	$408,841	$477,413,344	$33,159,425	0.0001%	0.0012%
514	Information services & data processing services	$72,128	$90,910,435	$5,454,626	0.0001%	0.0013%
52	**Finance & Insurance**					
521	Monetary authorities - central bank	$767	$0	$0		
522	Credit intermediation & related activities	$67,327	$1,030,210,082	$141,175,129	0.0000%	0.0000%
523	Securities intermediation & related activities	$24,910	$367,487,329	$49,778,608	0.0000%	0.0001%
524	Insurance carriers & related activities	$473,984	$1,312,063,818	$77,867,525	0.0000%	0.0006%
525	Funds, trusts, & other financial vehicles	$8,307	$23,281,761	$10,012,080	0.0000%	0.0001%

Table VII-5
Potential Economic Impacts
(Continued)

Industry	Total Annualized Costs	Revenues (Thousands of Dollars)	Profits (Thousands of Dollars)	Costs as a Percent of Revenues	Costs as a Percent of Profits
Real Estate & Rental and Leasing					
Real estate	$1,260,369	$236,657,346	$28,134,720	0.0005%	0.0045%
Rental & leasing services	$552,537	$98,997,720	$4,219,658	0.0006%	0.0131%
Lessors of intangibles, except copyrighted works	$7,254	$14,894,889	$2,645,765	0.0000%	0.0003%
Professional, Scientific, & Technical					
Legal services	$15,724	$182,828,620	$16,701,874	0.0000%	0.0001%
Accounting, tax, bookkeeping, & payroll services	$159,521	$86,243,925	$8,796,205	0.0002%	0.0018%
Architectural, engineering, & related services	$290,130	$166,219,410	$7,393,783	0.0002%	0.0039%
Specialized design services	$71,124	$19,598,570	$1,175,914	0.0004%	0.0060%
Computer systems design & related services	$56,705	$181,779,719	$9,611,552	0.0000%	0.0006%
Management, scientific, & tech consulting services	$229,742	$130,823,753	$9,762,623	0.0002%	0.0024%
Scientific R&D Serv.	$85,905	$62,482,362	$5,314,515	0.0001%	0.0016%
Advertising & related services	$130,468	$60,400,991	$3,318,277	0.0002%	0.0039%
Other professional, scientific, & technical services	$945,735	$53,688,288	$3,039,380	0.0018%	0.0311%
Management of Companies					
Offices of bank holding companies	$12,476	$11,380,300	$1,945,123	0.0001%	0.0006%
Offices of other holding companies	$64,962	$87,606,642	$56,387,562	0.0001%	0.0001%
Corporate, subsidiary, & regional managing offices	$500,702	$213,897,581	$140,770,910	0.0002%	0.0004%
Adm and Support & Waste Management					
Administrative and Support Serv.	$4,970,996	$409,237,061	$18,551,991	0.0012%	0.0268%
Waste management & Remediation Serv.	$286,737	$48,203,744	$2,216,582	0.0006%	0.0129%

Table VII-5
Potential Economic Impacts
(Continued)

NAICS Code	Industry	Total Annualized Costs	Revenues (Thousands of Dollars)	Profits (Thousands of Dollars)	Costs as a Percent of Revenues	Costs as a Percent of Profits
61	**Educational Services**					
6111	Elementary & secondary schools	$207,122	$41,859,655	$2,939,909	0.0005%	0.0070%
6112	Junior colleges	$10,135	$3,759,090	$279,302	0.0003%	0.0036%
6113	Colleges, universities, & profesional schools	$174,545	$104,059,977	$8,207,275	0.0002%	0.0021%
6114	Business schools, & computer & mgmt training	$3,173	$6,649,972	$454,828	0.0000%	0.0007%
6115	Technical & trade schools	$21,762	$7,162,633	$502,237	0.0003%	0.0043%
6116	Other schools & instruction	$24,032	$10,723,900	$709,033	0.0002%	0.0034%
6117	Educational support services	$11,125	$6,063,612	$433,589	0.0002%	0.0026%
62	**Healthcare and Social Assistance**					
621	Ambulatory health care services	$8,348,427	$505,690,644	$21,414,681	0.0017%	0.0390%
622	Hospitals	$4,589,433	$499,145,896	$29,567,549	0.0009%	0.0155%
623	Nursing & residential care facilities	$2,782,456	$126,267,746	$6,664,367	0.0022%	0.0418%
624	Social assistance	$1,261,322	$90,179,715	$4,049,544	0.0014%	0.0311%
71	**Arts, Entertainment & Recreation**					
711	Performing arts, spectator sports, etc.	$105,255	$55,904,896	$2,477,481	0.0002%	0.0042%
712	Museums, historical sites, & similar institutions	$31,924	$8,655,007	$398,588	0.0004%	0.0080%
713	Amusement, gambling, & recreation industries	$481,140	$82,994,366	$4,024,972	0.0006%	0.0120%
72	**Accommodation & Food Services**					
721	Accommodation	$966,669	$122,505,607	$6,447,175	0.0008%	0.0150%
722	Food services & drinking places	$474,186	$324,210,635	$13,800,298	0.0001%	0.0034%

Table VII-5
Potential Economic Impacts
(Continued)

NAICS Code	Industry	Total Annualized Costs	Revenues (Thousands of Dollars)	Profits (Thousands of Dollars)	Costs as a Percent of Revenues	Costs as a Percent of Profits
81	**Other Services (except Public Adm.)**					
811	Repair & maintenance	$2,969,716	$130,610,519	$4,243,038	0.0023%	0.0700%
812	Personal & laundry services	$1,609,689	$75,128,325	$2,533,843	0.0021%	0.0635%
813	Religious/grantmaking/civic/professional	$943,212	$220,360,946	$5,068,659	0.0004%	0.0186%
99	**State and Local Government** (about half covered by OSHA standards)					
9992	State Government	$397,110	n.a.	n.a.		
9993	Local Government	$1,573,030	n.a.	n.a.		
	Total	**$97,088,564**	**$22,526,419,824**	**$1,336,589,692**	**0.0004%**	**0.0073%**

Note: Costs are expressed in 2007 dollars
Source: Office of Regulatory Analysis, OSHA, based on PP&E (2008)

In profit-earning entities, compliance costs can generally be expected to be absorbed through a combination of increases in prices or reduction in

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profits. The extent to which the impacts of cost increases affect prices or profits depends on the price elasticity of demand for the products or services produced and sold by the entity.

The price elasticity of demand refers to the relationship between changes in the price charged for a product and the resulting changes in the demand for that product. A greater degree of elasticity of demand implies that an entity or industry is less able to pass increases in costs through to its customers in the form of a price increase and must absorb more of the cost increase through a reduction in profits.

In the case of cost increases that may be incurred due to the requirements of the proposal, all businesses within each of the covered industry sectors would be subject to the same requirements. Thus, to the extent potential price increases correspond to costs associated with achieving compliance with the standards, the elasticity of demand for each entity will approach that faced by the industry as a whole.

Given the small incremental increases in prices potentially resulting from compliance with the proposed standards and the lack of readily available substitutes for the products and services provided by the covered industry sectors, demand is expected to be sufficiently inelastic in each affected industry to enable entities to substantially offset compliance costs through minor price increases without experiencing any significant reduction in revenues or profits.

OSHA expects the economic impact of the proposed rulemaking to be both an increase in the efficiency of production of goods and services and an improvement in the welfare of society.

First, as demonstrated by the analysis of costs and benefits associated with compliance with the requirements of the proposal, OSHA expects that societal welfare will increase as a result of these standards, as the benefits exceed the necessary compliance costs. The proposal is estimated to yield net benefits of over $500 million annually that would be achieved in a cost-effective manner.

Second, until now, many of the costs associated with the injuries, illnesses, and fatalities resulting from the risks addressed by the proposal have been externalized. For example, the costs incurred by society to supply certain products and services that are accompanied by injuries, illnesses, or fatalities from employee exposure to hazardous chemicals have not been fully reflected in the prices of those products and services. To the extent that fewer of these costs are externalized because of improved employer and employee information about hazardous chemicals in the workplace, the price mechanism will enable the market to produce a more efficient allocation of resources. However, reductions in externalities by themselves do not necessarily increase efficiency or social welfare unless the costs of achieving the reductions (including indirect and unintended consequences of regulatory approaches) are outweighed by the associated benefits, as they are in this instance.

In addition, based on an analysis of the costs and economic impacts associated with this rulemaking, OSHA preliminarily concludes that the effects of the proposal on employment, wages, and economic growth for the United States would be negligible. The effects on international trade are expected to be small but not negligible, because of the increased import and export opportunities with U.S. trading partners arising from harmonization of the U.S. system with GHS. Hence, the primary effect on international trade is likely to be beneficial.

OSHA requests comments from the public regarding these preliminary conclusions and requests information on whether and how much this proposal would affect international trade.

Statement of Energy Effects

As required by Executive Order 13211, and in accordance with the guidance for implementing Executive Order 13211 and with the definitions provided therein as prescribed by the Office of Management and Budget (OMB), OSHA has analyzed the proposed standard with regard to its potential to have a significant adverse effect on the supply, distribution, or use of energy.

As a result of this analysis, OSHA has determined that this action is not a significant energy action as defined by the relevant OMB guidance.

H. Initial Regulatory Flexibility Screening Analysis

The Regulatory Flexibility Act, as amended in 1996, requires the preparation of an Initial Regulatory Flexibility Analysis (IRFA) for proposed rules where there would be a significant economic impact on a substantial number of small firms. (5 U.S.C. 601–612). Under the provisions of the law, each such analysis shall contain:

1. A description of the impact of the proposed rule on small entities;

2. A description of the reasons why action by the agency is being considered;

3. A succinct statement of the objectives of, and legal basis for, the proposed rule;

4. A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

5. A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record;

6. An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule; and

7. A description and discussion of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities, such as

(a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(b) The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

(c) The use of performance rather than design standards; and

(d) An exemption from coverage of the rule, or any part thereof, for such small entities.

The Regulatory Flexibility Act further states that the required elements of the IRFA may be performed in conjunction with or as part of any other agenda or analysis required by any other law if such other analysis satisfies the relevant provisions.

While a full understanding of OSHA's analysis and conclusions with respect to costs and economic impacts on small businesses requires a reading of the complete PEA and its supporting materials, this IRFA will summarize the key aspects of OSHA's analysis as they affect small businesses.

1. A Description of the Impact of the Proposed Rule on Small Entities.

The proposed regulation would require classification of chemicals, especially chemical mixtures, somewhat different from current hazard determination methods; a standardized format for the organization of MSDSs (now called SDSs); standardized labels and standardized pictograms; and training for affected employees on these changes. (Some commenters argued that GHS would also impose more stringent testing requirements, but as explained in Section V of the preamble, the HCS

does not currently require testing of chemicals, and will not require testing with adoption of the GHS.)

For the purpose of its cost analysis, OSHA estimated three types of cost:

(1) Costs to chemical producers of classifying chemicals, reformatting SDSs, and developing new labels;

(2) Costs for safety and health managers and logistics personnel to familiarize themselves with the standard (although not required by the regulation, this is a necessary step in its implementation); and

(3) Costs of training affected employees on how to find the information they need on SDSs and to comprehend pictograms and standard labels.

OSHA believes that each of these is a one-time cost that would be incurred during the three-year transition period after the final rule is published. OSHA anticipates that, once the final rule is implemented, the costs under GHS will be equivalent to the costs under the existing HCS system. In other words, once chemical producers and distributors set up for and shift to the GHS system, OSHA expects there will be no additional costs arising from the proposed rule for classification, SDSs, and labeling.

OSHA also anticipates that, after the three-year transition period, the familiarization costs for health and safety managers, logistics personnel, and emergency response planners and the training costs for affected employees will be lower under the uniform GHS system than under the existing HCS system. (However, in its estimates of economic impacts, OSHA has not included any cost savings for the expected lower training costs.)

OSHA welcomes comments on these points, which are critical to OSHA's economic analysis of costs, benefits, and economic impacts.

OSHA's criteria for determining whether there are significant economic impacts on a substantial number of small firms are that, for any given industry, the annualized costs as a percentage of revenues do not exceed 1 percent and that the annualized costs as a percentage of profits do not exceed 5 percent. All of OSHA's calculations of the economic impacts on small firms totally ignore any offsetting benefits of any kind, even though OSHA estimates that, for most small firms, the benefits of this rule will actually exceed the costs.

OSHA's industry-by-industry analysis, both for small firms as defined by SBA and for very small firms with fewer than 20 employees, shows that in no industry size class do the annualized costs exceed 0.013 percent of revenues or 0.4 percent of profits. For affected small firms as defined by SBA, the average annualized cost per firm of the proposed rule would be $16 per year. In terms of chemical producing industries only, the average annualized cost per small firm as defined by SBA would be $452 per year. For affected firms with fewer than 20 employees, the average annualized cost per firm of the proposed rule would be $12 per year, and the average annualized cost per firm that produces chemicals would be $167 per year.

Given these results, OSHA concludes that the proposed rule will not have a significant economic impact on a substantial number of small firms. Thus, an IRFA is not required for this rulemaking. However, recognizing the possible value that such an analysis may provide, OSHA has voluntarily included the elements of the IRFA as part of this Initial Regulatory Flexibility Screening Analysis (IRFSA) and has analyzed the potential impact of the proposed revisions on small entities. As described in Section D of this economic analysis, the proposed revisions to HCS, on the whole, are expected to result in significant net benefits to employers, as the associated cost savings outweigh the corresponding compliance costs. The underlying analysis included the effects on small entities, and this conclusion generally applies to the small entities affected by the proposed rule.

In order to ensure that any potential significant adverse impact on a substantial number of small entities would be appropriately considered, OSHA also specifically evaluated the impact on small entities of the costs of compliance alone, without regard to the associated savings.

The total annualized cost of compliance with the proposal for small entities is estimated to be approximately $63 million, as shown by industry in Table VII–6.

To assess the potential economic impact of the proposal on small entities, OSHA calculated the ratios of compliance costs to profits and to revenues. These ratios are presented for each affected industry in Table VII–6. OSHA expects that among small entities potentially affected by the proposal, the average increase in prices necessary to completely offset the compliance costs would be 0.0009 percent. The average price increase necessary to completely offset compliance costs would not exceed 0.02 percent among small entities in any single affected industry sector.

In the event that no costs could be passed through, the compliance costs could be completely absorbed through an average reduction in profits of less than 0.02 percent. In most affected industries the compliance costs could be completely absorbed through an average reduction in profits of less than 0.05 percent; the reduction would be no more than 0.4 percent in any of the affected industries.

To further evaluate the potential for any adverse effects on small entities resulting from the proposal, OSHA assessed the short-term impacts that may be associated with the compliance costs during the transition period.

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Table VII-6
Potential Economic Impacts on Small Entities

NAICS Code	Industry	Number of Small Entities	Number of Affected Small Entities	Total Annualized Costs for Small Entities	Revenues of Small Entities (Thousands of Dollars)	Profits of Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Small Entities	Costs as a Percent of Profits for Small Entities
11	**Agriculture, Forestry, Fishing & Hunting**							
113	Forestry & Logging	12,240	12,240	$92,470	$9,207,817	$277,542	0.0010%	0.0333%
114	Fishing, Hunting and Trapping	2,324	1,042	$8,725	$1,089,599	$32,688	0.0008%	0.0267%
115	Support Activities for Ag & Forestry	10,984	4,840	$36,863	$8,388,285	$256,527	0.0004%	0.0144%
211	**Oil and Gas Extraction**							
211111	Crude petroleum & natural gas extraction	6,154	6,154	$1,271,520	$22,897,060	$2,952,894	0.0056%	0.0431%
211112	Natural gas liquid extraction	77	77	$25,184	$1,075,086	$105,572	0.0023%	0.0239%
212	Mining (except Oil & Gas)	4,484	4,484	$83,383	$14,679,509	$1,321,156	0.0006%	0.0063%
213	Support Activities for Mining	7,354	7,354	$89,376	$7,715,878	$385,794	0.0012%	0.0232%
22	**Utilities**							
2211	Electric Power Gen, Trans & Distrib	736	736	$28,601	$4,758,181	$142,745	0.0006%	0.0200%
2212	Natural Gas Distribution	546	546	$29,258	$13,126,957	$393,809	0.0002%	0.0074%
2213	Water, Sewage, & Other Systems	5,207	5,207	$198,915	$3,068,594	$153,430	0.0065%	0.1296%
23	**Construction**							
236	Construction of Buildings	223,243	223,243	$2,815,174	$364,717,977	$18,235,899	0.0008%	0.0154%
237	Heavy Construction	38,077	38,077	$626,136	$110,852,266	$4,434,091	0.0006%	0.0141%
238	Special Trade Contractors	436,598	436,598	$5,813,278	$368,872,523	$14,754,901	0.0016%	0.0394%
31	**Manufacturing**							
311	Food Manufacturing	20,833	20,833	$1,182,157	$103,598,547	$3,205,183	0.0011%	0.0369%
312	Beverage &Tobacco Prod. Manuf.	2,624	2,624	$124,409	$12,687,241	$1,097,766	0.0010%	0.0113%
313	Textile Mills	3,247	3,247	$219,961	$14,287,327	$1,448,616	0.0015%	0.0152%
314	Textile Product Mills	6,834	6,834	$342,832	$13,004,295	$957,531	0.0026%	0.0358%
315	Apparel Manufacturing	12,727	12,727	$704,117	$27,858,961	$1,558,065	0.0025%	0.0452%
316	Leather & Allied Product Manufac.	1,444	1,444	$78,406	$3.423,743	$187,526	0.0023%	0.0418%
321	Wood Product Manufacturing	14,958	14,958	$872,312	$46,891,917	$1,555,920	0.0019%	0 0561%
322	Paper Manufacturing	3,313	3,313	$269,102	$29,561,890	$661,483	0.0009%	0.0407%
323	Printing and Related Support	34,896	34,896	$1,649,985	$54,337,410	$2,352,389	0.0030%	0.0701%
324	**Petroleum & Coal Prod. Manufac.**							
324110	Petroleum refineries	182	182	$238,421	$118,692,945	$8,006,808	0.0002%	0.0030%
324121	Asphalt paving mixture & block mfg	446	446	$482,870	$3,477,972	$121,785	0.0139%	0 3965%

Table VII-6
Potential Economic Impacts on Small Entities
(Continued)

NAICS Code	Industry	Number of Small Entities	Number of Affected Small Entities	Total Annualized Costs for Small Entities	Revenues of Small Entities (Thousands of Dollars)	Profits of Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Small Entities	Costs as a Percent of Profits for Small Entities
324122	Asphalt shingle & coating materials mfg	118	118	$135,988	$2,780,865	$147,807	0.0049%	0.0920%
324191	Petroleum lubricating oil & grease mfg	246	246	$155,005	$1,912,869	$63,044	0.0081%	0.2459%
324199	All other petroleum & coal products mfg	55	55	$41,817	$737,624	$23,082	0.0057%	0.1812%
325	**Chemical Manufacturing**							
325110	Petrochemical mfg	30	30	$37,840	$9,329,936	$920,190	0.0004%	0.0041%
325120	Industrial gas mfg	77	77	$29,078	$2,778,593	$263,675	0.0010%	0.0110%
325131	Inorganic dye & pigment mfg	52	52	$13,365	$1,976,099	$181,118	0.0007%	0.0074%
325132	Synthetic organic dye & pigment mfg	84	84	$38,016	$1,219,851	$103,523	0.0031%	0.0367%
325181	Alkalies & chlorine mfg	21	21	$6,209	$1,063,109	$95,422	0.0006%	0.0065%
325182	Carbon black mfg	6	6	$2,080	$113,030	$7,686	0.0018%	0.0271%
325188	All other basic inorganic chemical mfg	320	320	$159,060	$8,736,416	$798,137	0.0018%	0.0199%
325191	Gum & wood chemical mfg	36	36	$23,101	$201,257	$14,426	0.0115%	0.1601%
325192	Cyclic crude & intermediate mfg	24	24	$5,373	$1,517,099	$147,531	0.0004%	0.0036%
325193	Ethyl alcohol mfg	56	56	$15,718	$1,644,074	$121,718	0.0010%	0.0129%
325199	All other basic organic chemical mfg	379	379	$220,464	$22,851,825	$2,172,440	0.0010%	0.0101%
325211	Plastics material & resin mfg	387	387	$396,754	$19,060,144	$1,740,529	0.0021%	0.0228%
325212	Synthetic rubber mfg	121	121	$24,854	$3,094,417	$281,869	0.0008%	0.0088%
325221	Cellulosic organic fiber mfg	9	9	$3,348	$560,934	$42,674	0.0006%	0.0078%
325222	Noncellulosic organic fiber mfg	53	53	$22,203	$6,484,391	$478,859	0.0003%	0.0046%
325311	Nitrogenous fertilizer mfg	119	119	$10,722	$1,695,598	$153,997	0.0006%	0.0070%
325312	Phosphatic fertilizer mfg	24	24	$2,138	$205,946	$15,877	0.0010%	0.0135%
325314	Fertilizer (mixing only) mfg	344	344	$65,354	$1,884,424	$138,667	0.0035%	0.0471%
325320	Pesticide & other agricultural chemical mfg	166	166	$57,717	$1,675,332	$122,932	0.0034%	0.0470%
325411	Medicinal & botanical mfg	302	302	$74,180	$4,871,371	$440,499	0.0015%	0.0168%
325412	Pharmaceutical preparation mfg	662	662	$198,401	$37,183,323	$3,489,537	0.0005%	0.0057%
325413	In-vitro diagnostic substance mfg	145	145	$99,582	$1,116,080	$85,298	0.0089%	0.1167%
325414	Biological product (except diagnostic) mfg	215	215	$37,890	$1,284,300	$94,206	0.0030%	0.0402%
325510	Paint & coating mfg	1,052	1,052	$595,511	$5,300,432	$381,719	0.0112%	0.1560%
325520	Adhesive mfg	423	423	$241,020	$2,852,112	$209,820	0.0085%	0.1149%

Table VII-6
Potential Economic Impacts on Small Entities
(Continued)

NAICS Code	Industry	Number of Small Entities	Number of Affected Small Entities	Total Annualized Costs for Small Entities	Revenues of Small Entities (Thousands of Dollars)	Profits of Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Small Entities	Costs as a Percent of Profits for Small Entities
325611	Soap & other detergent mfg	653	653	$212,306	$8,060,850	$657,838	0.0026%	0.0323%
325612	Polish & other sanitation good mfg	562	562	$147,159	$2,558,341	$186,226	0.0058%	0.0790%
325613	Surface active agent mfg	124	124	$48,072	$1,137,822	$82,768	0.0042%	0.0581%
325620	Toilet preparation mfg	677	677	$209,384	$4,991,963	$370,227	0.0042%	0.0566%
325910	Printing ink mfg	209	209	$286,003	$1,683,276	$124,085	0.0170%	0.2305%
325920	Explosives mfg	52	52	$21,341	$551,976	$47,828	0.0039%	0.0446%
325991	Custom compounding of purchased resin	510	510	$77,141	$3,153,348	$232,773	0.0024%	0.0331%
325992	Photographic film, paper, plate, & chemical mfg	319	319	$57,415	$1,116,374	$81,456	0.0051%	0.0705%
325998	Miscellaneous chemical product & preparation mfg	895	895	$454,837	$5,380,064	$391,736	0.0085%	0.1161%
326	Plastics and Rubber Products Man.	11,566	11,566	$1,374,421	$58,620,581	$2,498,431	0.0023%	0.0550%
327	Nonmetallic Mineral Prod. Manufac.	11,070	11,070	$1,217,009	$36,791,748	$1,250,969	0.0033%	0.0973%
331	Primary Metal Manufacturing	4,898	4,898	$681,803	$63,041,139	$2,392,409	0.0011%	0.0285%
332	Fabricated Metal Prod. Manufac.	56,564	56,564	$3,002,615	$135,135,617	$4,893,522	0.0022%	0.0614%
333	Machinery Manufacturing	24,476	24,476	$1,331,083	$84,091,181	$2,892,941	0.0016%	0.0460%
334	Computer & Electronic Prod Man.	13,165	13,165	$741,094	$68,659,714	$2,421,189	0.0011%	0.0306%
335	Electric Equipment, Appliance Man.	5,307	5,307	$427,644	$48,948,920	$2,079,263	0.0009%	0.0206%
336	Transportation Equip. Manufacturing	9,728	9,728	$1,025,150	$221,368,223	$5,500,261	0.0005%	0.0186%
337	Furniture & Related Product Man.	21,000	21,000	$1,064,520	$36,196,176	$1,447,847	0.0029%	0.0735%
339	Miscellaneous Manufacturing	27,871	27,871	$2,235,480	$52,087,901	$2,083,516	0.0043%	0.1073%
42	**Wholesale Trade**							
423	Durable Goods	214,860	214,860	$1,301,971	$722,292,128	$21,668,764	0.0002%	0.0060%
424	Nondurable Goods	119,975	119,975	$797,630	$601,304,420	$18,039,133	0.0001%	0.0044%
44-45	**Retail Trade**							
441	Motor vehicle & parts dealers	81,582	81,582	$848,628	$202,827,984	$4,056,560	0.0004%	0.0209%
442	Furniture & home furnishings stores	49,265	48,753	$216,730	$54,214,566	$1,626,437	0.0004%	0.0133%
443	Electronics & appliance stores	33,668	13,139	$55,483	$31,834,509	$955,035	0.0002%	0.0058%
444	Building material & garden equipment & dealers	66,835	66,835	$350,565	$109,523,264	$5,476,163	0.0003%	0.0064%
445	Food & beverage stores	117,704	67,850	$374,296	$115,182,044	$2,303,641	0.0003%	0.0162%
446	Health & personal care stores	42,065	42,065	$585,661	$59,014,974	$1,770,449	0.0010%	0.0331%

Table VII-6
Potential Economic Impacts on Small Entities
(Continued)

NAICS Code	Industry	Number of Small Entities	Number of Affected Small Entities	Total Annualized Costs for Small Entities	Revenues of Small Entities (Thousands of Dollars)	Profits of Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Small Entities	Costs as a Percent of Profits for Small Entities
447	Gasoline stations	63,569	37,410	$338,972	$128,714,360	$3,861,431	0.0003%	0.0088%
448	Clothing & clothing accessories stores	68,371	6,219	$26,824	$43,905,559	$1,771,999	0.0001%	0.0015%
451	Sporting goods, hobby, book, & music stores	43,547	11,500	$61,169	$28,812,018	$864,361	0.0002%	0.0071%
452	General merchandise stores	9,474	3,033	$99,197	$6,860,862	$274,434	0.0014%	0.0361%
453	Miscellaneous store retailers	103,856	46,155	$196,124	$59,889,693	$1,796,691	0.0003%	0.0109%
454	Nonstore retailers	34,755	27,432	$132,469	$36,889,154	$1,211,961	0.0004%	0.0109%
48-49	**Transportation & Warehousing**							
481	Air transportation	2,688	1,633	$53,732	$56,475,397	$1,694,262	0.0001%	0.0032%
483	Water transportation	1,384	1,384	$29,001	$14,075,088	$703,754	0.0002%	0.0041%
484	Truck transportation	97,053	97,053	$768,455	$77,594,180	$1,586,514	0.0010%	0.0484%
485	Transit & ground passenger transportation	14,575	7,106	$75,660	$10,576,403	$240,372	0.0007%	0.0315%
486	Pipeline transportation	206	206	$18,996	$23,211,077	$3,807,336	0.0001%	0.0005%
487	Scenic & sightseeing transportation	2,400	1,665	$11,473	$1,415,420	$30,190	0.0008%	0.0380%
488	Support activities for transportation	25,818	25,818	$242,059	$25,680,060	$527,997	0.0009%	0.0458%
492	Couriers & messengers	8,346	8,346	$59,414	$6,592,619	$150,316	0.0009%	0.0395%
493	Warehousing & storage	4,795	4,795	$99,151	$11,718,324	$468,733	0.0008%	0.0212%
51	**Information**							
511	Publishing industries	24,243	17,550	$156,465	$52,072,418	$3,359,109	0.0003%	0.0047%
512	Motion picture & sound recording industries	18,831	3,116	$14,250	$17,820,427	$1,069,226	0.0001%	0.0013%
513	Broadcasting & telecommunications	16,064	4,614	$35,274	$25,408,061	$1,524,484	0.0001%	0.0023%
514	Information services & data processing services	16,334	2,589	$17,205	$16,546,313	$992,779	0.0001%	0.0017%
52	**Finance & Insurance**							
521	Monetary authorities - central bank	0	0	$0	$0	$0		
522	Credit intermediation & related activities	53,814	2,377	$10,767	$89,157,861	$9,807,365	0.0000%	0.0001%
523	Securities intermediation & related activities	45,746	776	$3.959	$44,517,277	$4,896,900	0.0000%	0.0001%
524	Insurance carriers & related activities	127,249	10,946	$107.398	$79,476,951	$3,973,848	0.0001%	0.0027%
525	Funds, trusts, & other financial vehicles	2,283	195	$1,456	$5,864,061	$1,471,133	0.0000%	0 0001%

Table VII-6
Potential Economic Impacts on Small Entities
(Continued)

NAICS Code	Industry	Number of Small Entities	Number of Affected Small Entities	Total Annualized Costs for Small Entities	Revenues of Small Entities (Thousands of Dollars)	Profits of Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Small Entities	Costs as a Percent of Profits for Small Entities
53	**Real Estate & Rental and Leasing**							
531	Real estate	223,997	191,072	$960,273	$154,626,867	$17,470,758	0.0006%	0.0055%
532	Rental & leasing services	30,723	30,723	$213,805	$27,673,660	$1,366,695	0.0008%	0.0156%
533	Lessors of intangibles, except copyrighted works	1,749	408	$2,900	$2,926,520	$263,387	0.0001%	0.0011%
54	**Professional, Scientific, & Technical**							
5411	Legal services	169,334	3,575	$10,959	$108,511,389	$5,554,289	0.0000%	0.0002%
5412	Accounting, tax, bookkeeping, & payroll services	98,573	10,121	$70,201	$41,067,013	$2,471,437	0.0002%	0.0028%
5413	Architectural, engineering, & related services	94,197	23,309	$173,756	$78,112,103	$3,869,491	0.0002%	0.0045%
5414	Specialized design services	30,292	9,890	$67,503	$16,802,471	$1,008,148	0.0004%	0.0067%
5415	Computer systems design & related services	90,926	3,810	$23,265	$66,058,023	$2,668,250	0.0000%	0.0009%
5416	Management, scientific, & tech consulting services	108,952	19,564	$153,540	$62,845,228	$5,004,126	0.0002%	0.0031%
5417	Scientific R&D Serv.	10,516	3,926	$40,392	$15,564,979	$1,091,951	0.0003%	0.0037%
5418	Advertising & related services	33,927	12,202	$88,269	$30,695,557	$1,833,006	0.0003%	0.0048%
5419	Other professional, scientific, & technical services	64,123	64,123	$813,898	$37,299,792	$2,219,955	0.0022%	0.0367%
55	**Management of Companies**							
551111	Offices of bank holding companies	1,017	747	$6,760	$3,847,239	$591,867	0.0002%	0.0011%
551112	Offices of other holding companies	7,415	3,571	$35,240	$21,328,497	$12.631,626	0.0002%	0.0003%
551114	Corporate, subsidiary, & regional managing offices	14,223	13,261	$175,995	$48,945,160	$31,902,312	0.0004%	0.0006%
56	**Adm and Support & Waste Management**							
561	Administrative and Support Serv.	270,510	270,510	$3,055,830	$178,323,783	$7,132,951	0.0017%	0.0428%
562	Waste management & Remediation Serv.	13,846	13,846	$183,146	$14,875,499	$595,020	0.0012%	0.0308%
61	**Educational Services**							
6111	Elementary & secondary schools	17,632	14,686	$174,759	$30,848,661	$2,130,303	0.0006%	0.0082%
6112	Junior colleges	499	387	$4,263	$1,369,120	$94,439	0.0003%	0.0045%
6113	Colleges, universities, & profesional schools	1,488	1,042	$14,192	$3,971,847	$272,776	0.0004%	0.0052%
6114	Business schools, & computer & mgmt training	6,643	507	$2,230	$4,450,594	$288.924	0.0001%	0.0008%
6115	Technical & trade schools	5,974	2,101	$16,762	$4,766,202	$312,758	0.0004%	0.0054%
6116	Other schools & instruction	26,938	3,356	$21,986	$9,625,037	$621,124	0.0002%	0.0035%
6117	Educational support services	4,448	596	$5,479	$2,859,237	$184,820	0.0002%	0.0030%

Table VII-6
Potential Economic Impacts on Small Entities
(Continued)

NAICS Code	Industry	Number of Small Entities	Number of Affected Small Entities	Total Annualized Costs for Small Entities	Revenues of Small Entities (Thousands of Dollars)	Profits of Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Small Entities	Costs as a Percent of Profits for Small Entities
62	**Healthcare and Social Assistance**							
621	Ambulatory health care services	419,668	419,668	$6,533,243	$328,680,492	$11,250,866	0.0020%	0.0581%
622	Hospitals	1,287	1,287	$76,052	$6,819,758	$289,304	0.0011%	0.0263%
623	Nursing & residential care facilities	30,600	30,600	$922,713	$33,237,359	$1,393,544	0.0028%	0.0662%
624	Social assistance	101,396	77,537	$1,047,526	$70,445,700	$2,893,937	0.0015%	0.0362%
71	**Arts, Entertainment & Recreation**							
711	Performing arts, spectator sports, etc.	36,900	12,342	$81,465	$28,441,869	$961,722	0.0003%	0.0085%
712	Museums, historical sites, & similar institutions	5,949	3,246	$24,781	$4,767,676	$184,607	0.0005%	0.0134%
713	Amusement, gambling, & recreation industries	58,582	47,069	$377,453	$42,619,782	$1,636,941	0.0009%	0.0231%
72	**Accommodation & Food Services**							
721	Accommodation	50,134	50,134	$621,322	$39,300,838	$1,503,225	0.0016%	0.0413%
722	Food services & drinking places	375,367	61,661	$304,272	$206,401,623	$7,909,848	0.0001%	0.0038%
81	**Other Services (except Public Adm.)**							
811	Repair & maintenance	214,106	214,106	$2,742,637	$103,334,529	$3,151,999	0.0027%	0.0870%
812	Personal & laundry services	168,594	127,794	$1,294,447	$51,782,390	$1,600,005	0.0025%	0.0809%
813	Religious/grantmaking/civic/professional	288,723	120,430	$845,582	$166,541,184	$3,454,066	0.0005%	0.0245%
99	**State and Local Government** (about half covered by OSHA standards)							
9992	State Government	n.a.	n.a.					
9993	Local Government	n.a.	n.a.					
	Total	**5,635,302**	**3,877,457**	**62,888,049**	**7,145,213,794**	**346,763,535**	**0.0009%**	**0.0181%**

Note: Costs are expressed in 2007 dollars
Source: Office of Regulatory Analysis, OSHA, based on PP&E (2008)

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The total non-annualized compliance costs for small entities during the three-year transition period are estimated to be $740 million, or about $247 million

per year for three years. Thus, the potential temporary impact would be about 0.003 percent of revenues or about 0.1 percent of profits, on average, per year for three years.

In order to further ensure that potential impacts on small entities were fully analyzed and considered, OSHA also separately examined the potential impacts of the proposed standard on very small entities, defined as those with fewer than 20 employees. As shown in Table VII–7, the total annualized costs for entities in this size class would be an estimated $40 million. The annualized costs represent about 0.001 percent of revenues and less than 0.03 percent of profits. The total non-annualized compliance costs for very small entities during the three-year transition period are estimated to be $463 million, or about $154 million per year for three years. Thus, the potential temporary impact would be less than 0.005 percent of revenues or 0.15 percent of profits, on average, per year for three years.

In order to more carefully focus on the industry sectors most likely to have significant economic impacts, OSHA carefully examined those industries in the chemical manufacturing and petroleum and coal products manufacturing sectors (''chemical and petroleum producers'') that produce chemicals and SDSs. OSHA examined the extent to which these firms might have significant economic impacts if they produced an unusually high number of chemical products requiring SDSs.

To examine this issue, OSHA examined all small chemical and petroleum producers with respect to their costs as a percentage of revenues and profits. Using the same cost estimation methods as the base analysis, OSHA estimated how many separate chemical products a small firm would have to produce for its annualized costs of compliance with the proposed rule to exceed 5 percent of profits. OSHA found that the firm would have to produce 3,385 distinct chemical products, each requiring its own SDS. OSHA thinks it very unlikely that there are substantial numbers of small firms (with an average of 27 employees) that produce 3,385 or more distinct chemical products. Swedish data show that less than 0.1 percent of all firms (including large firms) in Sweden produce more than 500 distinct chemical products. (Swedish Chemical Agency, *http://www.kemi.se/templates/Page____4268.aspx, 2007 data.*)

OSHA conducted a similar analysis for very small firms with fewer than twenty employees. This analysis found that such firms, with an average of 4.7 employees, would need to produce more than 140 distinct chemical products for costs to exceed 5 percent of profits. OSHA estimates that this would be a very rare situation.

Further, even if small firms could be found that produce more than 3,385 chemical products and very small firms that produce more than 140 chemical products, the costs would probably be much lower than OSHA estimates. First, firms producing this many distinct products probably would not produce SDSs and labels by hand, as OSHA assumes most small firms do, but would instead invest in appropriate software to lower their costs, as most larger firms do. Second, firms producing large numbers of chemical products commonly do so because they sell a variety of different mixtures. Once appropriate data for the ingredients of these mixtures had been developed, using the bridging principles outlined in Appendix A of the preamble, small firms developing SDSs and labels for each mixture would take far less than the 7 hours per chemical product that OSHA has estimated for small firms to convert to the GHS system.

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Table VII-7
Potential Economic Impacts on Very Small Entities

NAICS Code	Industry	Number of Very Small Entities	Number of Affected Very Small Entities	Total Annualized Costs for Very Small Entities	Revenues of Very Small Entities (Thousands of Dollars)	Profits of Very Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Very Small Entities	Costs as a Percent of Profits for Very Small Entities
11	**Agriculture, Forestry, Fishing & Hunting**							
113	Forestry & Logging	11,620	11,620	82,661	6,581,348	197,440	0.0013%	0.0419%
114	Fishing, Hunting and Trapping	2,290	1,008	7,283	877,772	26,333	0.0008%	0.0277%
115	Support Activities for Ag & Forestry	10,238	4,094	25,768	4,877,980	146,339	0.0005%	0.0176%
211	**Oil and Gas Extraction**							
211111	Crude petroleum & natural gas extraction	5,721	5,721	987,327	7,517,063	1,503,413	0.0131%	0.0657%
211112	Natural gas liquid extraction	60	60	10,295	56,333	11,267	0.0183%	0.0914%
212	Mining (except Oil & Gas)	3,390	3,390	41,406	2,875,275	258,775	0.0014%	0.0160%
213	Support Activities for Mining	6,426	6,426	67,773	3,338,633	166,932	0.0020%	0.0406%
22	**Utilities**							
2211	Electric Power Gen, Trans & Distrib	733	733	28,374	4,696,110	140,883	0.0006%	0.0201%
2212	Natural Gas Distribution	461	461	17,537	2,524,266	75,728	0.0007%	0.0232%
2213	Water, Sewage, & Other Systems	5,021	5,021	184,856	2,032,991	101,650	0.0091%	0.1819%
23	**Construction**							
236	Construction of Buildings	210,575	210,575	2,425,160	194,216,746	9,710,837	0.0012%	0.0250%
237	Heavy Construction	30,976	30,976	371,033	29,095,896	1,163,836	0.0013%	0.0319%
238	Special Trade Contractors	401,117	401,117	4,683,194	182,919,071	7,316,763	0.0026%	0.0640%
31	**Manufacturing**							
311	Food Manufacturing	15,651	15,651	602,160	14,663,498	293,270	0.0041%	0.2053%
312	Beverage &Tobacco Prod. Manuf.	2,012	2,012	74,557	1,853,790	129,765	0.0040%	0.0575%
313	Textile Mills	2,284	2,284	89,351	2,340,008	117,000	0.0038%	0.0764%
314	Textile Product Mills	5,584	5,584	215,396	3,993,393	119,802	0.0054%	0.1798%
315	Apparel Manufacturing	9,593	9,593	378,203	5,293,683	158,810	0.0071%	0.2381%
316	Leather & Allied Product Manufac.	1,123	1,123	43,253	596,603	17,898	0.0072%	0.2417%
321	Wood Product Manufacturing	10,887	10,887	435,528	8,898,673	444,934	0.0049%	0.0979%
322	Paper Manufacturing	1,637	1,637	66,304	2,458,540	24,585	0.0027%	0.2697%
323	Printing and Related Support	29,188	29,188	1,121,299	14,382,705	575,308	0.0078%	0.1949%
324	**Petroleum & Coal Prod. Manufac.**							
324110	Petroleum refineries	106	106	32,766	521,250	26,063	0.0063%	0.1257%
324121	Asphalt paving mixture & block mfg	279	279	88,511	872,276	43,614	0.0101%	0.2029%

Table VII-7
Potential Economic Impacts on Very Small Entities
(Continued)

NAICS Code	Industry	Number of Very Small Entities	Number of Affected Very Small Entities	Total Annualized Costs for Very Small Entities	Revenues of Very Small Entities (Thousands of Dollars)	Profits of Very Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Very Small Entities	Costs as a Percent of Profits for Very Small Entities
324122	Asphalt shingle & coating materials mfg	68	68	20,950	194,649	9,732	0.0108%	0.2153%
324191	Petroleum lubricating oil & grease mfg	167	167	51,206	282,884	14,144	0.0181%	0.3620%
324199	All other petroleum & coal products mfg	33	33	10,171	47,673	2,384	0.0213%	0.4267%
325	**Chemical Manufacturing**							
325110	Petrochemical mfg	13	13	3,992	44,755	2,238	0.0089%	0.1784%
325120	Industrial gas mfg	49	49	4,482	74,937	3,747	0.0060%	0.1196%
325131	Inorganic dye & pigment mfg	27	27	2,487	50,071	2,504	0.0050%	0.0993%
325132	Synthetic organic dye & pigment mfg	44	44	11,149	71,994	3,600	0.0155%	0.3097%
325181	Alkalies & chlorine mfg	11	11	1,952	142,840	7,142	0.0014%	0.0273%
325182	Carbon black mfg	4	4	714	113,030	5,651	0.0006%	0.0126%
325188	All other basic inorganic chemical mfg	150	150	26,417	296,723	14,836	0.0089%	0.1781%
325191	Gum & wood chemical mfg	28	28	5,011	44,561	2,228	0.0112%	0.2249%
325192	Cyclic crude & intermediate mfg	5	5	461	7,856	393	0.0059%	0.1174%
325193	Ethyl alcohol mfg	34	34	6,026	473,860	23,693	0.0013%	0.0254%
325199	All other basic organic chemical mfg	176	176	39,811	409,387	20,469	0.0097%	0.1945%
325211	Plastics material & resin mfg	208	208	36,212	467,525	23,376	0.0077%	0.1549%
325212	Synthetic rubber mfg	81	81	7,444	92,477	4,624	0.0080%	0.1610%
325221	Cellulosic organic fiber mfg	3	3	606	100,646	5,032	0.0006%	0.0120%
325222	Noncellulosic organic fiber mfg	24	24	7,817	2,305,903	115,295	0.0003%	0.0068%
325311	Nitrogenous fertilizer mfg	87	87	5,691	180,584	9,029	0.0032%	0.0630%
325312	Phosphatic fertilizer mfg	13	13	829	11,804	590	0.0070%	0.1405%
325314	Fertilizer (mixing only) mfg	238	238	22,041	299,080	14,954	0.0074%	0.1474%
325320	Pesticide & other agricultural chemical mfg	114	114	25,787	298,919	14,946	0.0086%	0.1725%
325411	Medicinal & botanical mfg	208	208	35,829	345,168	17,258	0.0104%	0.2076%
325412	Pharmaceutical preparation mfg	390	390	67,528	938,713	46,936	0.0072%	0.1439%
325413	In-vitro diagnostic substance mfg	88	88	26,927	86,920	4,346	0.0310%	0.6196%
325414	Biological product (except diagnostic) mfg	127	127	15,279	210,143	10,507	0.0073%	0.1454%
325510	Paint & coating mfg	757	757	130,992	1,101,860	55,093	0.0119%	0.2378%
325520	Adhesive mfg	289	289	49,956	454,470	22,724	0.0110%	0.2198%

Table VII-7
Potential Economic Impacts on Very Small Entities
(Continued)

NAICS Code	Industry	Number of Very Small Entities	Number of Affected Very Small Entities	Total Annualized Costs for Very Small Entities	Revenues of Very Small Entities (Thousands of Dollars)	Profits of Very Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Very Small Entities	Costs as a Percent of Profits for Very Small Entities
325611	Soap & other detergent mfg	500	500	86,432	2,069,295	103,465	0.0042%	0.0835%
325612	Polish & other sanitation good mfg	420	420	38,575	469,259	23,463	0.0082%	0.1644%
325613	Surface active agent mfg	83	83	14,474	204,093	10,205	0.0071%	0.1418%
325620	Toilet preparation mfg	468	468	43,181	690,280	34,514	0.0063%	0.1251%
325910	Printing ink mfg	138	138	25,949	271,569	13,578	0.0096%	0.1911%
325920	Explosives mfg	24	24	2,196	16,123	806	0.0136%	0.2724%
325991	Custom compounding of purchased resin	337	337	31,356	420,318	21,016	0.0075%	0.1492%
325992	Photographic film, paper, plate, & chemical mfg	252	252	29,773	199,143	9,957	0.0150%	0.2990%
325998	Miscellaneous chemical product & preparation mfg	616	616	107,189	1,015,830	50,792	0.0106%	0.2110%
326	Plastics and Rubber Products Man.	6,746	6,746	453,564	6,931,026	346,551	0.0065%	0.1309%
327	Nonmetallic Mineral Prod. Manufac.	7,927	7,927	531,005	6,712,807	201,384	0.0079%	0.2637%
331	Primary Metal Manufacturing	3,024	3,024	201,692	3,992,418	119,773	0.0051%	0.1684%
332	Fabricated Metal Prod. Manufac.	42,782	42,782	1,682,920	27,514,141	1,100,566	0.0061%	0.1529%
333	Machinery Manufacturing	17,301	17,301	675,039	14,642,783	439,283	0.0046%	0.1537%
334	Computer & Electronic Prod Man.	8,725	8,725	329,998	9,728,863	291,866	0.0034%	0.1131%
335	Electric Equipment, Appliance Man.	3,383	3,383	131,643	3,698,292	110,949	0.0036%	0.1187%
336	Transportation Equip. Manufacturing	6,345	6,345	250,634	6,937,987	277,519	0.0036%	0.0903%
337	Furniture & Related Product Man.	17,205	17,205	668,114	8,289.830	331,593	0.0081%	0.2015%
339	Miscellaneous Manufacturing	23,393	23,393	1,515,805	11,628,672	465,147	0.0130%	0.3259%
42	**Wholesale Trade**							
423	Durable Goods	190,608	190,608	849,753	393,046,036	11,791,381	0.0002%	0.0072%
424	Nondurable Goods	104,949	104,949	537,560	286,772,122	8,603,164	0.0002%	0.0062%
44-45	**Retail Trade**							
441	Motor vehicle & parts dealers	77,264	77,264	755,766	113,707,749	2,274,155	0.0007%	0.0332%
442	Furniture & home furnishings stores	45,843	45,331	142,527	34,628,932	1,038,868	0.0004%	0.0137%
443	Electronics & appliance stores	31,831	11,302	37,895	20,271,717	608,152	0.0002%	0.0062%
444	Building material & garden equipment & dealers	59,236	59,236	213,629	56,743,312	2,837,166	0.0004%	0.0075%
445	Food & beverage stores	108,015	58,160	228,418	68,941,888	1,378,838	0.0003%	0.0166%
446	Health & personal care stores	38,874	38,874	483,686	41,223,847	1,236,715	0.0012%	0.0391%

Table VII-7
Potential Economic Impacts on Very Small Entities
(Continued)

NAICS Code	Industry	Number of Very Small Entities	Number of Affected Very Small Entities	Total Annualized Costs for Very Small Entities	Revenues of Very Small Entities (Thousands of Dollars)	Profits of Very Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Very Small Entities	Costs as a Percent of Profits for Very Small Entities
447	Gasoline stations	57,901	31,742	184,143	76,120,504	2,283,615	0.0002%	0.0081%
448	Clothing & clothing accessories stores	65,360	4,458	18,830	31,408,124	1,256,325	0.0001%	0.0015%
451	Sporting goods, hobby, book, & music stores	40,955	8,908	39,332	18,955,488	568,665	0.0002%	0.0069%
452	General merchandise stores	8,844	2,403	90,919	4,077,685	163,107	0.0022%	0.0557%
453	Miscellaneous store retailers	98,841	41,141	132,795	42,062,319	1,261,870	0.0003%	0.0105%
454	Nonstore retailers	33,205	25,881	107,194	26,360,527	790,816	0.0004%	0.0136%
48-49	**Transportation & Warehousing**							
481	Air transportation	2,161	1,105	6,670	2,327,304	69,819	0.0003%	0.0096%
483	Water transportation	1,039	1,039	10,925	1,158,016	57,901	0.0009%	0.0189%
484	Truck transportation	89,042	89,042	606,179	39,358,113	787,162	0.0015%	0.0770%
485	Transit & ground passenger transportation	11,941	4,471	34,254	3,437,699	68,754	0.0010%	0.0498%
486	Pipeline transportation	132	132	1,125	1,176,902	117,690	0.0001%	0.0010%
487	Scenic & sightseeing transportation	2,201	1,466	8,063	682,483	13,650	0.0012%	0.0591%
488	Support activities for transportation	23,391	23,391	186,091	14,531,949	290,639	0.0013%	0.0640%
492	Couriers & messengers	7,454	7,454	38,107	2,724,131	54,483	0.0014%	0.0699%
493	Warehousing & storage	3,667	3,667	43,653	2,544,751	101,790	0.0017%	0.0429%
51	**Information**							
511	Publishing industries	20,130	13,437	73,006	11,384,800	683,088	0.0006%	0.0107%
512	Motion picture & sound recording industries	17,735	2,020	7,873	11,321,170	679,270	0.0001%	0.0012%
513	Broadcasting & telecommunications	13,917	2,466	15,334	10,989,900	659,394	0.0001%	0.0023%
514	Information services & data processing services	14,528	1,166	7,439	7,406,399	444,384	0.0001%	0.0017%
52	**Finance & Insurance**							
521	Monetary authorities - central bank	0	0	0	0	0		
522	Credit intermediation & related activities	47,056	971	4,399	36,003,115	3,960.343	0.0000%	0.0001%
523	Securities intermediation & related activities	44,538	581	2,962	30,923,715	3,401,609	0.0000%	0.0001%
524	Insurance carriers & related activities	123,333	8,026	78,741	49,172,468	2,458,623	0.0002%	0.0032%
525	Funds, trusts, & other financial vehicles	2,270	182	1,337	5,352,318	1,338,080	0.0000%	0.0001%

Table VII-7
Potential Economic Impacts on Very Small Entities
(Continued)

NAICS Code	Industry	Number of Very Small Entities	Number of Affected Very Small Entities	Total Annualized Costs for Very Small Entities	Revenues of Very Small Entities (Thousands of Dollars)	Profits of Very Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Very Small Entities	Costs as a Percent of Profits for Very Small Entities
53	**Real Estate & Rental and Leasing**							
531	Real estate	215,880	182,955	775,332	112,822,181	12,410,440	0.0007%	0.0062%
532	Rental & leasing services	27,998	27,998	142,573	14,658,204	732,910	0.0010%	0.0195%
533	Lessors of intangibles, except copyrighted works	1,644	304	1,827	1,726,572	155,391	0.0001%	0.0012%
54	**Professional, Scientific, & Technical**							
5411	Legal services	162,242	2,368	7,260	69,818,935	3,490,947	0.0000%	0 0002%
5412	Accounting, tax, bookkeeping, & payroll services	93,935	6,508	40,769	24,545,007	1,227,250	0.0002%	0.0033%
5413	Architectural, engineering, & related services	85,978	15,091	87,828	38,647,371	1.932,369	0.0002%	0.0045%
5414	Specialized design services	29,466	9,064	56,035	13,020,339	781,220	0.0004%	0.0072%
5415	Computer systems design & related services	85,431	1,962	11,927	34,113,170	1,364,527	0.0000%	0.0009%
5416	Management, scientific, & tech consulting services	104,691	15,304	93,496	40,947,555	3,275,804	0.0002%	0.0029%
5417	Scientific R&D Serv.	9,033	2,444	18,675	6,087,663	426,136	0.0003%	0.0044%
5418	Advertising & related services	31,415	9,690	53,252	17,974,342	1,078,461	0.0003%	0.0049%
5419	Other professional, scientific, & technical services	59,690	59,690	695,583	24,949,687	1,496,981	0.0028%	0.0465%
55	**Management of Companies**							
551111	Offices of bank holding companies	392	122	690	764,994	107,099	0.0001%	0.0006%
551112	Offices of other holding companies	5,161	1,317	7,417	9,161,437	4,763,947	0.0001%	0.0002%
551114	Corporate, subsidiary, & regional managing offices	1,589	627	3,530	885,837	460,635	0.0004%	0.0008%
56	**Adm and Support & Waste Management**							
561	Administrative and Support Serv.	240,520	240,520	2,133,582	77,442,286	3,097,691	0.0028%	0.0689%
562	Waste management & Remediation Serv.	12,197	12,197	141,986	6,948,468	277,939	0.0020%	0.0511%
61	**Educational Services**							
6111	Elementary & secondary schools	8,205	5,259	37,016	2,910,337	174,620	0.0013%	0.0212%
6112	Junior colleges	258	81	445	139,933	8,396	0.0003%	0.0053%
6113	Colleges, universities, & profesional schools	979	533	4,086	525,361	31,522	0.0008%	0.0130%
6114	Business schools, & computer & mgmt training	6,128	248	1,036	2,261,725	135,704	0.0000%	0.0008%
6115	Technical & trade schools	5,195	1,322	6,948	2,087,622	125,257	0.0003%	0.0055%
6116	Other schools & instruction	24,568	1,791	10,991	5,390,673	323,440	0.0002%	0.0034%
6117	Educational support services	4,142	306	2,639	1,532,693	91,962	0.0002%	0.0029%

Table VII-7
Potential Economic Impacts on Very Small Entities
(Continued)

NAICS Code	Industry	Number of Very Small Entities	Number of Affected Very Small Entities	Total Annualized Costs for Very Small Entities	Revenues of Very Small Entities (Thousands of Dollars)	Profits of Very Small Entities (Thousands of Dollars)	Costs as a Percent of Revenues for Very Small Entities	Costs as a Percent of Profits for Very Small Entities
62	**Healthcare and Social Assistance**							
621	Ambulatory health care services	390,336	390,336	5,152,403	207,873,085	6,236,193	0.0025%	0.0826%
622	Hospitals	637	637	8,302	1,329,498	39,885	0.0006%	0 0208%
623	Nursing & residential care facilities	17,176	17,176	234,944	5,297,430	158,923	0.0044%	0.1478%
624	Social assistance	81,638	57,779	489,353	18,539,304	556,179	0.0026%	0.0880%
71	**Arts, Entertainment & Recreation**							
711	Performing arts, spectator sports, etc.	34,930	10,372	54,376	19,362,299	580,869	0.0003%	0.0094%
712	Museums, historical sites, & similar institutions	5,116	2,413	11,804	1,636,104	49,083	0.0007%	0.0240%
713	Amusement, gambling, & recreation industries	47,892	36,379	200,289	15,899,495	476,985	0.0013%	0.0420%
72	**Accommodation & Food Services**							
721	Accommodation	41,267	41,267	417,794	15,102,809	453,084	0.0028%	0.0922%
722	Food services & drinking places	301,189	21,393	92,127	77,599,440	2,327,983	0.0001%	0.0040%
81	**Other Services (except Public Adm.)**							
811	Repair & maintenance	205,196	205,196	2,442,589	74,764,586	2,242,938	0.0033%	0.1089%
812	Personal & laundry services	159,826	119,026	1,042,292	33,958,438	1,018,753	0.0031%	0.1023%
813	Religious/grantmaking/civic/professional	263,149	94,855	510,222	86,397,908	1,727,958	0.0006%	0.0295%
99	**State and Local Government** (about half covered by OSHA standards)							
9992	State Government	n.a.	n.a.					
9993	Local Government	n.a.	n.a.					
	Total	**5,061,427**	**3,358,052**	**39,457,326**	**3,124,004,335**	**132,300,139**	**0.0013%**	**0.0298%**

Note: Costs are expressed in 2007 dollars
Source: Office of Regulatory Analysis, OSHA, based on PP&E (2008)

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OSHA therefore concludes that there are not a substantial number of firms that would incur significant economic

impacts as a result of producing a very large number of chemical products.

OSHA remains concerned with the possible problems of small and very small firms that might produce very large numbers of distinct chemical products. OSHA welcomes comments on the issue of whether there are small and very small firms that produce a very large number of products, what industries they are in, and their anticipated costs to convert to the GHS system.

2. A description of the reasons why action by the agency is being considered.

OSHA's HCS was first adopted in 1983 for manufacturing (48 FR 53280). Later the Agency expanded the scope of coverage to include all industries where employees are potentially exposed to hazardous chemicals (52 FR 31852).

The HCS requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import. The rule provides definitions of health and physical hazards to use as the criteria for determining hazards in the evaluation process. The information about the hazards and protective measures is then required to be conveyed to downstream employers and employees by putting labels on containers and preparing and distributing safety data sheets. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including container labels, safety data sheets, and employee training.

Ensuring that this information is available in workplaces helps employers design and implement appropriate controls for chemical exposures, and gives employees the right-to-know and the knowledge of the hazards and identities of the chemicals, as well as allowing them to participate actively in the successful control of exposures. Together, these actions of employers and employees reduce the potential for adverse effects to occur. The information transmitted under the HCS requirements provides the foundation upon which a chemical safety and health program is built in the workplace. Without this information, appropriate controls could not be identified and implemented.

OSHA's HCS is designed to disseminate information on chemicals to precipitate changes in handling methods and thus protect those exposed to the chemical from experiencing adverse effects. To protect employees and members of the public who are potentially exposed to chemicals during their production, transportation, use, and disposal, a number of countries have developed laws that require information about those chemicals to be prepared and transmitted to affected parties. These laws vary with regard to the scope of chemicals covered, definitions of hazards, the specificity of requirements (*e.g.,* specification of a format for safety data sheets), and the use of symbols and pictograms. The inconsistencies between the various laws are substantial enough that different labels and safety data sheets must often be used for the same product when it is marketed in different nations. For example, Canada has established requirements for labels under its Workplace Hazardous Materials Information System (WHMIS). WHMIS requires that labels include specified symbols within a defined circle. U.S. chemical manufacturers must label their chemicals accordingly for marketing in Canada.

Development of multiple sets of labels and safety data sheets for each product when shipped to different countries is a major compliance burden for chemical manufacturers, distributors, and transporters involved in international trade. Small businesses may have particular difficulty in coping with the complexities and costs involved, and it has been argued that these differing requirements may be a technical (non-tariff) barrier to trade.

These concerns led, in June 1992, to a mandate from the United Nations Conference on Environment and Development (UNCED) (Chapter 19 of Agenda 21), supported by the U.S., calling for development of a globally harmonized chemical classification and labeling system. The negotiations were extensive and spanned a number of years. The product resulting from this effort, the Globally Harmonized System of Classification and Labeling of Chemicals, was formally adopted by the new United Nations Committee of Experts on the Transport of Dangerous Goods and the Globally Harmonized System of Classification and Labeling of Chemicals in December 2002.

The proposed modifications to the HCS incorporate the GHS's requirements. They would require chemical manufacturers to apply new hazard classification criteria to their chemicals and to prepare and distribute new labels and safety data sheets. Further, these SDSs and labels would be standardized in a way that they are not under the existing hazard communication standard. OSHA's current performance-based approach to SDSs and labeling can create confusion among those who seek to use hazard information effectively. For example, labels and safety data sheets may include symbols and hazard statements that are unfamiliar to readers or not well understood. This lack of standardization and the absence of pictograms are particularly a problem for U.S. workers not literate in English. Containers may be labeled with such a large volume of information that important statements are not easily recognized.

OSHA believes that adoption of these new requirements would benefit employers and enhance employee safety. Employers who use chemicals, and exposed employees, would benefit from receiving the revised labels and safety data sheets prepared in a consistent format. The information should be easier to comprehend and access in the new approach, allowing it to be used more effectively for the protection of employees. The primary effect in workplaces where chemicals are used but not produced would be to integrate the new approach into the workplace hazard communication program, including assuring that both employers and employees understand the pictograms and other information provided on the chemicals.

OSHA believes that adoption of the GHS would improve labels and SDS comprehensibility through implementation of a standardized approach. The current regulatory system includes a performance-oriented approach to labels and SDSs, allowing the producers to use whatever language or format they choose to provide the necessary information. This results in a lack of consistency that makes it difficult for users of chemicals to properly identify their hazards and protective measures, particularly when purchasing the same product from multiple suppliers. Having the information provided in the same words and pictograms on labels, as well as having a standardized order of information on SDSs, would help all users, including employers, employees, and safety and health responders, more easily identify the critical information necessary to protect employees.

In addition, American employees and employers should receive benefits from the international adoption of GHS. Development of the GHS system required extensive work by a great number of people, and resources from many countries and organizations. The reason it received such support is that there is a belief that there are significant benefits associated with implementation of a globally harmonized approach to hazard communication. Countries, international organizations, chemical producers, and users of chemicals would all benefit. There are at least four

reasons to expect that GHS will be adopted globally.

First and foremost, implementation of the GHS would enhance protection of humans and the environment. Occupationally related injuries, illnesses, and fatalities remain a serious problem in the U.S. For example, although likely to contain very significant underreporting, data from the Bureau of Labor Statistics indicate that, in 2007, employees suffered an estimated 55,400 illnesses attributable to chemical exposures (BLS, 2008), and that some 17,340 chemical-source injuries and illnesses involved days away from work (BLS, 2009). As shown in the preliminary economic analysis, the adoption of the proposed revisions is expected to result in a significant reduction in injuries, illnesses, and fatalities among U.S. employees exposed to hazardous chemicals. In addition, while some countries, such as ours, already have the benefits of protection under existing systems, the majority of countries do not have such comprehensive approaches. Thus, implementation of the GHS would provide these countries with the important protections that result from dissemination of information about chemical hazards and protective measures. In our country, we expect to improve and build on protections we already have.

Second, implementation of such an approach would facilitate international trade in chemicals. It would reduce the burdens caused by having to comply with differing requirements for the same product, and allow companies who do not have the resources to deal with those burdens to be involved in international trade.

Third, one of the initial reasons this system was pursued internationally involved concerns about animal welfare and the proliferation of requirements for animal testing and evaluation. Existing systems with different definitions of hazards often result in duplicative testing to produce data related to the varying cut-offs in the different systems. Having one agreed definition would reduce this duplicative testing. It should be noted, however, that OSHA has never had testing requirements. The HCS is based on collecting and evaluating the best available existing evidence on the hazards of each chemical.

Fourth, information transmittal systems provide the underlying infrastructure for the sound management of chemicals in a country. Those countries that do not have the resources to develop and maintain such a system can use the GHS to build their chemical safety and health programs. Since it has been developed, and will be maintained, through an international approach, national resources to accomplish chemical safety and health can be streamlined. Unlike some other issues, a country's approach to the sound management of chemicals definitely affects others countries. In some cases, bordering countries may experience pollution and other effects of uncontrolled chemical exposures. In all countries, there is a need to acquire sufficient information to properly handle the chemical when it is imported from other countries. Thus having a coordinated and harmonized approach to the development and dissemination of information about chemicals would be mutually beneficial to importing and exporting countries.

In the U.S., there are four primary regulatory agencies that exercise jurisdiction over chemical hazard communication: OSHA; the Department of Transportation, which regulates chemicals in transport; the Consumer Product Safety Commission, which regulates consumer products; and the Environmental Protection Agency, which regulates pesticides and has other labeling authority under the Toxic Substances Control Act. These agencies are not domestically harmonized in terms of definitions of hazards and other requirements. If all four agencies adopt the GHS, the U.S. would have the additional benefit of harmonizing the overall U.S. approach to classification and labeling. Since most chemicals are produced in a workplace and shipped elsewhere, nearly every employer deals with at least two sets of Federal requirements. Thus every producer would be likely to experience some benefits from domestic harmonization.

OSHA has made a preliminary determination that the proposed revisions would improve the quality and consistency of information provided to employers and employees regarding chemical hazards and associated protective measures. The Agency anticipates this improved information would enhance the effectiveness of the HCS in ensuring that employees are apprised of the chemical hazards to which they are exposed, and in reducing the incidence of chemical-related occupational illnesses and injuries. OSHA preliminarily estimates that (1) savings in benefits from improved employee health and safety exceed the costs of the proposed rule, and (2) cost savings to chemical users exceed the costs of the proposed rule.

An additional and more complete discussion of the reasons why this standard is being proposed by the Agency is provided in other parts of the preamble section of this Notice of Proposed Rulemaking (NPRM).

3. Statement of the objectives of, and legal basis for, the proposed rule.

The primary objective of the proposed revisions to the OSHA HCS is to achieve the potential benefits of the OSHA HCS in a more comprehensive, efficient, and effective manner. The revisions are expected to provide an increased degree of occupational safety and health for employees exposed to hazardous chemicals in the workplace.

Another objective of the proposed revisions is to provide updated, clear, and comprehensive standards regarding the classification of chemical hazards and the manner in which relevant information about chemical hazards is disseminated to affected employees.

The intent of the HCS is to ensure that the hazards of all chemicals are evaluated and that information concerning chemical hazards and associated protective measures is transmitted to employers and employees. The standard achieves this goal by requiring chemical manufacturers and importers to review available scientific evidence concerning the physical and health effects of the chemicals they produce or import to determine if they are hazardous.

For every chemical found to be hazardous, the chemical manufacturer or importer must develop a container label and an SDS and provide both to downstream users of the chemical. All employers with employees exposed to hazardous chemicals must develop a hazard communication program and ensure that exposed employees are provided with labels, access to SDSs, and training on the hazardous chemicals in their workplace.

The three information components in this system—labels, SDSs, and employee training—are all essential to the effective functioning of the program. Labels provide a brief, conspicuous summary of hazard information at the site where the chemical is used. SDSs provide detailed technical information and serve as a reference source for exposed employees, industrial hygienists, safety professionals, emergency responders, health care professionals, and other interested parties. Training is designed to ensure that employees understand the chemical hazards in their workplace and are aware of protective measures to follow.

Labels, SDSs, and training are complementary parts of a comprehensive hazard communication program—each element reinforces the knowledge necessary for effective protection of employees.

Information provided in accordance with the HCS serves to reduce the incidence of chemical-related illnesses and injuries in the workplace. This is accomplished by modifying the behavior of both employers and employees. Providing information to employers enables them to implement protective measures in the workplace. Less hazardous alternatives may be chosen, or appropriate engineering controls, work practices, and personal protective equipment can be selected. Improved understanding of chemical hazards by supervisory personnel results in safer handling of hazardous substances, as well as proper storage and housekeeping measures.

Employees provided with information and training on chemical hazards are able to fully participate in the protective measures instituted in their workplaces. Knowledgeable employees can take the steps required to work safely with chemicals in their workplace and are able to determine what actions are necessary if an emergency occurs. Information on chronic effects of exposure to hazardous chemicals helps employees recognize signs and symptoms of chronic disease and seek early treatment. Information provided under the HCS also enables health and safety professionals to provide better services to exposed employees. Medical surveillance, exposure monitoring, and other services are enhanced by the ready availability of health and safety information.

OSHA believes that the comprehensive approach adopted in the HCS, which includes requiring evaluation of chemicals and the transmittal of information through labels, SDSs, and training, is sound. This proposed rule does not alter that approach. Rather, the proposed rule is intended to improve the effectiveness of the HCS by enhancing the quality and consistency of the information provided to employers and employees. OSHA believes this can be accomplished by revising the requirements of the standard to conform to the more specific and detailed provisions of the GHS for classification, labeling, and SDSs.

The legal basis for the rule is the responsibility given the Department of Labor through the Occupational Safety and Health (OSH) Act of 1970. The OSH Act authorizes and obligates the Secretary of Labor to promulgate mandatory occupational safety and health standards as necessary ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.'' 29 U.S.C. 651(b). The OSH Act gives the Agency authority to issue and revise standards and regulations to further this goal. A thorough discussion of the legal basis can be found in the preamble to the proposed standard in Section VI—Pertinent Legal Authority.

4. Description of and estimate of the number of small entities to which the proposed rule will apply.

OSHA has completed a preliminary analysis of the impacts associated with this proposal, including an analysis of the type and number of small entities to which the proposed rule would apply, as described above. In order to determine the number of small entities potentially affected by this rulemaking, OSHA used the definitions of small entities developed by the Small Business Administration (SBA) for each industry.

The proposed standard would impact firms that are the primary producers or distributors of hazardous chemicals, and firms whose employees are exposed to hazardous chemicals. Based on the definitions of small entities developed by SBA for each industry, the proposal is estimated to potentially affect a total of 4,215,404 small entities, as shown in Table VII–6. The rule would have its greatest impacts on the 72,000 small firms that produce chemicals that require SDSs and labels.

5. Description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule.

The proposed standard includes revised criteria for classification of chemical hazards; revised labeling provisions that include requirements for use of standardized signal words, pictograms, and hazard statements; a specified format for safety data sheets; and related revisions to definitions of terms used in the standard, employee information and training requirements, and other sections of HCS.

The preamble to the proposed standard provides a comprehensive description of, and further detail regarding, the compliance requirements of the proposed rulemaking. A description of the types of entities which would be subject to the new and revised requirements, and the types of professional skills necessary for compliance with the requirements, is presented in the relevant sections of this economic analysis and the corresponding supporting research, and is summarized below with a summary of unit costs. Except for employee training, these costs would apply only to those businesses not already in compliance with the proposed revisions. OSHA requests comments and information from the public regarding these estimates:

Reclassifying chemicals and modifying SDSs and labels:

- Medium establishments (100–499 employees): an average of 5 hours per SDS; in addition, for 25 percent of establishments, an average of $200 per SDS for software modifications.
- Small establishments (1–99 employees): an average of 7 hours per SDS.

Management familiarization and other costs:

- Eight hours for health and safety managers and logistics personnel in the manufacturing sector.
- Two hours for each hazard communication program manager not in the manufacturing sector.

Employee training:

- 30 minutes per production employee in most industries;
- 15 minutes in occupations exposed to few hazardous chemicals and types of hazards;
- 5 minutes per employee in some occupations where GHS-type pictograms are already in use.

6. Federal rules which may duplicate, overlap or conflict with the proposed rule.

OSHA has not identified any other Federal rules which may duplicate, overlap, or conflict with the proposal, and requests comments from the public regarding this issue.

7. Alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

As discussed in Section IV, this rulemaking is unique for OSHA in that it seeks to improve employee protections by adopting an internationally harmonized approach to hazard communication issues. While the current HCS has provided protections for exposed workers by disseminating information about chemicals in their workplaces for many years now, the approach taken in the GHS strengthens and refines the system, and gives OSHA the opportunity to improve hazard communication by adopting it. The GHS has the same general concept of an integrated, comprehensive process of identifying and communicating hazards, but provides more extensive criteria to define the hazards in a consistent manner, as well as standardizes label elements and SDS formats to help to ensure that the information is conveyed consistently.

OSHA has preliminarily concluded that required adoption of GHS is the

best approach to modifying the HCS to achieve the goals of global harmonization, ease of use, and improved health and safety. As addressed in Section XV of the preamble, many commenters supported the concept of OSHA moving forward to adopt the GHS. Several objected to adoption, and OSHA has identified and responded to their concerns in Section XV of the preamble as well. In addition, there were several commenters who noted that small chemical manufacturers that are not engaged in international trade of chemicals would have a large burden associated with adopting the GHS, and questionable benefits due to their lack of involvement in international trade. The Small Business Administration (SBA) suggested that OSHA ''consider 'grandfathering' or exempting small businesses that do not export regulated chemicals.'' (Document ID # 0022) Others simply noted that they believed there would be high costs and limited benefits for such employers, or that it would be costly and difficult to adopt (Document ID #s 0015, 0026, 0178, and 0144). There was no discussion in any of these comments about how this might work in the revised standard.

None of these commenters suggested a detailed approach to exactly how such a grandfathering or exemptions might work. OSHA welcomes comments on how such approaches might work.

A somewhat different alternative that might achieve the goals of those employers who anticipate high costs for little benefit to themselves would be for OSHA to consider simply facilitating the voluntary adoption of GHS. With some very minor exceptions that could easily be changed by rule, the existing HCS performance-based approach to MSDS would permit chemical producers and importers to use the proposed GHS SDS format and approach. They could not however, adopt the GHS classifications without a change to the rule allowing the use of GHS classifications where they differed from those in HCS. The use of labels adopting GHS signal words, precautionary statements, formats, and pictograms could be possible under the HCS performance-based approach to labels. However, it should be carefully noted that, although the resulting label might appear GHS compliant, it need not actually be GHS-compliant, and in some case would not be based on the GHS classifications. Further, individual firms could produce labels using GHS formats, *etc.,* with meanings quite different from those in GHS.

The advantages of a system that simply facilitated voluntary adoption of GHS are that (1) those engaged in international trade, whether as exporters or importers, could obtain the full benefits of international harmonization; (2) those producers of chemicals who saw no market advantage to changing systems would not need to incur the costs associated with changing their hazard classification, MSDSs, and labels and (3) it is possible that employee training under a performance-based system for MSDSs and labels would not need to be required or changed.

OSHA sees a number of disadvantages to a rule that simply facilitates the voluntary adoption of GHS. First consider the issues of a common MSDS/SDS format versus MSDS/SDS formats that can vary in any way whatsoever while meeting a standard of what an MSDS must contain. Such an approach would eliminate a proportion of the possible benefits from knowing where to look in an SDS for the information one wants or needs, since many SDSs will still not be standardized.

From OSHA's perspective, a key issue of concern in such an approach is that the classification criteria in the GHS are different from the hazard definitions in the current HCS. In general, as discussed in Section XV of the preamble, they cover the same scope of hazard, so these differences do not result in significant differences in the chemicals covered. But the GHS criteria divide most of the hazard classes into hazard categories that convey the severity of the effect, while few of the hazard definitions in the current HCS take this approach. The standardized label elements are associated with these specific hazard categories, *i.e.,* the harmonized pictograms, signal words, and hazard statements are assigned by hazard category and reflect the degree of hazard it presents to those exposed. Likewise, the precautionary statements assigned are also reflective of the degree of hazard, with responses related to these presumed hazard levels.

Third, consider the possible disadvantages of not having a common, well-understood labeling system with signal words, pictograms, precautionary statements and common formatting. In the absence of such a system it would be extremely difficult to teach persons not literate in English how to understand labels, and even those literate in English may have difficulty with major differences in the symbols and language used for the same substance or hazard.

It should also be noted that allowing the voluntary use of GHS might not be considered GHS-compliant as the phrase is used in GHS publications.

It is difficult to quantify the benefits and costs of the alternative of simply facilitating adoption of GHS. Part of the problem is that it is difficult to forecast the extent to which persons would voluntarily adopt GHS. OSHA therefore considered two scenarios. In the first scenario, there is no extensive adoption of GHS and GHS becomes simply a minor sub-class of the performance-oriented options already available. This scenario has the effect of minimizing the costs associated with the facilitation of voluntary adoption of GHS, but at the expense of minimizing the benefits of this alternative. In the second scenario, GHS would be adopted widely enough to become the norm for hazard communication, but some would continue their existing HCS approaches unchanged. Under this scenario, most firms would insist that their health and safety managers and logistics personnel be thoroughly familiar with GHS, and that employees be trained on GHS. This scenario minimizes the loss in benefits associated with the first scenario, but involves much greater costs than scenario 1 and may involve significantly increased costs over the option of full compliance with GHS. OSHA believes that the actual results will fall between these two scenarios and is seeking comment on the relative likelihood of these or other scenarios.

OSHA suspects that second scenario might be the more likely possibility. For example, the standardized MSDS system adopted by GHS is widely used in the U.S., particularly by large firms and firms with many MSDSs, though many have not adopted this system. Domestic and international producers, and large and small producers are not mutually exclusive—a large business engaged in international trade can not simply implement the GHS regardless of its suppliers. Small businesses sell to large businesses. If small businesses do not adopt the GHS, then the large businesses would have to generate GHS classifications for chemicals they buy from them in order to follow the GHS. It would be difficult for them to do this, particularly for mixtures, since they are not the producer of the chemicals. This concept was addressed in comments regarding the effective dates for the rule, when many suggested it was not appropriate to differentiate dates based on the size of the business. For example, ORC Worldwide, Inc. stated (Document ID # 0123):

> OSHA should consider a company's place in the manufacturing supply chain, not size, in determining how the phase-in is implemented. It would be sensible to start with producers of raw materials and basic chemicals. The technical information,

classification and categorization they perform will be useful downstream for the intermediate chemical producers and specialty chemical manufacturers. Lastly, the end user will benefit from the influx of information developed by the upstream professionals.

Just as the size of the company may not be an appropriate criterion to determine when that company should be in compliance, it also does not appear to be a useful way to determine whether the GHS provisions should be adopted by them. It is difficult to determine how a voluntary system, or a system based on business size, would be successfully implemented and enforced given the structure of the supply system. Because of these factors, OSHA anticipates that many smaller firms who may think they do not need GHS may be forced through the market to adopt the system to satisfy the needs of customers who do engage in international trade.

Under the first scenario, with no extensive voluntary adoption of GHS, the annualized costs $11 million per year for reclassification of chemicals and the $44 million in annualized costs for one-time retraining of workers would be largely eliminated. OSHA estimates that the $45 million in annualized costs for health and safety managers and logistics personnel to familiarize themselves with the GHS system would still be incurred. This alternative might add a continuing cost not present under either system of the need for new health and safety managers and logistics personnel to be familiar with both systems. Assuming a 5 percent annual turnover among such professional, assuring continuing knowledge of both systems would add costs of $25 million per year. This alternative under Scenario 1 would thus reduce the costs from $97 million per year to between $42 million per year and $77 million per year depending on whether it is assumed that new health and safety managers and logistics personnel would need to be familiar with both systems. In return for this reduction in costs, under Scenario 1, because of the assumption of no significant adoption of GHS, the benefits of $851 million per year are also lost. Furthermore, this analysis ignores non-quantified benefits of full adoption of GHS, such as decreases in training costs associated a full GHS system.

In choosing the voluntary adoption of GHS alternative, OSHA would be ignoring the potentially substantial health and safety benefits arising from the economically feasible (and, for most businesses, the economically desirable) option of full compliance with GHS and instead adopting a system with no such health and safety benefits for the sole reason of possibly saving a small minority of all affected businesses some costs.

Under Scenario 2, with widespread voluntary adoption of GHS, more benefits would be achieved than under Scenario 1, but all the benefits available under the proposed rule would not be achieved, and OSHA believes there would be greater costs than under the option of requiring full compliance with GHS. However, if widespread adoption of GHS is to result in substantially higher benefits than under Scenario 1, then health and safety managers and logistic personnel would have to be fully familiar with both systems, and employees would also need to be trained on GHS as the primary system and not just as one of many performance-oriented options. Thus, Scenario 2 would save some portion of the $11 million in annualized costs per year spent by chemical producers for reclassification and modifying SDSs and labels. However, the full costs of management familiarization and one-time employee training would still need to be incurred. In addition continuing costs would have to be incurred for new health and safety managers and logistic personnel to familiarize themselves with two systems and for new employees to be trained on both systems. Assuming turnover of 5 percent for manager and 20 percent for employees, the associated annual costs would be $150 million per year. Under Scenario 2, the alternative of facilitating voluntary adoption would achieve some portion of the benefits of GHS but with significantly greater costs—an additional $150 million per year for continuing GHS training of new employees and GHS familiarization for new health and safety managers and logistics personnel, offset by a very modest reduction in costs to chemical producers.

In terms of benefits, both OSHA's proposed full GHS compliant approach and that of a dual system would retain possible benefits to chemical producers and to international trade. However, OSHA is concerned that the confusions arising might negate some of the benefits associated with reduced injuries, illnesses and fatalities. While there would still be some situations where use of GHS would prevent injuries, there would also be situations where confusion and misunderstanding would lead to injuries, illnesses, and fatalities that might not otherwise be incurred. For example, employees used to seeing pictograms might easily make the false assumption that chemicals without a pictogram are safe. This has the potential to eliminate a significant portion of the annual health and safety benefits. Other benefits would also need to be reduced, though it is not clear by how much.

In addition to the chosen alternative of full compliance with GHS, OSHA also considered options requiring full compliance with some but not all portions of GHS. One such option would be to adopt the provisions of the GHS that are presumed to provide the greatest benefits at the least cost. For example, OSHA could adopt the standardized label provisions without the associated hazard classification criteria. Employers would be free to continue to use the existing hazard determination scheme, but present the label information in the standardized form anticipated under the GHS. Since the standardized labels appear to be relatively inexpensive to implement, while reviewing classifications is more costly, this has the potential to reduce the overall cost of implementation of the revised rule.

This option—adopting the label provisions but not the classification criteria—presents many of the same concerns. First, the reason the label provisions are relatively cost-efficient to adopt is that the GHS assigns the various required elements by hazard class and category. It is basically a cookbook approach. Once the classification or re-classification has been accomplished, the GHS provides the specific information for the label.

Requiring this standardized approach to labeling without the infrastructure of the criteria would be more burdensome for the chemical manufacturer to accomplish, though OSHA could consider whether it would be appropriate to provide criteria for HCS classification under this alternative that would reduce burden. However, OSHA is also concerned that this alternative would result in labels that may look the same but which actually do not have consistent warnings based on the precise hazardous effect. Without the GHS criteria that breaks hazard classes into multiple categories for most effects, it would be difficult to relate the label elements to the hazard determinations under the current HCS. For example, the current standard treats all carcinogens the same way, rather than differentiating them into several categories. OSHA would either have to provide some type of decision logic to employers in order to have a consistent approach or allow the responsible party to determine the appropriate labeling elements that should be included on the label. The most protective approach would be to treat all carcinogens or other effects as

being in the most hazardous category of each class so there will be no choice of label elements that would cause differences among employers. Regardless, chemical producers will have to undergo an assessment of their current determinations and attempt to relate them to the established hazard categories. This will be difficult, particularly for small producers. Alternatively, OSHA could create a regulatory system assigning HCS categories to each GHS label, but this would be totally contrary to the performance-orientation of the current HCS system, as well as having undetermined costs. It is thus unlikely that this would provide significant savings relative to simply reviewing classifications for purposes of putting the chemicals into GHS classes and categories.

However, apart from this burden, the benefits of standardized labeling would be reduced by not having common criteria upon which they are based. Chemical producers following this approach would likely not be able to use their labels in other countries where the GHS has been adopted. Hence, there would be costs of adoption without commensurate benefits in either comprehensibility or facilitation of trade.

Another type of dual approach would have OSHA adopt some, but not all, of the label elements. In particular, the Agency might not adopt the exact language of the precautionary statements since this language has been codified but are not yet considered to be ''harmonized'' under the GHS—they are provided for guidance and reference, but competent authorities may choose to implement other statements. The exact language for precautionary statements could be adopted later when they are harmonized under the GHS. Alternatively, OSHA could either allow label preparers to use whatever precautionary statements they deem appropriate or develop its own set of statements to require.

The precautionary statements, however, are the part of the GHS label that provides the measures to follow to ameliorate the possible hazardous effects of exposure. Delaying adoption of the precautionary statements would likely reduce the effectiveness of the labels significantly, and reduce the appropriate information on the SDSs as well. Labels that lack a precautionary statement would not be fully harmonized. The second alternative, to simply require precautionary statements, but not to specify what they are, would provide some protection but would not correct the current situation of inconsistent precautions due to the performance-oriented approach that allows the label preparer to determine what they are or if they are included. One communication advantage of providing the information in the same language from label-to-label is that workers and other users can be assured that the same action is required. If you take a simple preventive measure such as ''wash your hands,'' but convey it in several different ways, the reader of the label could think you mean something different. This is one of the advantages of providing the text for these statements in the revised HCS.

It should be noted that it appears that all of the commenters favoring an alternative of less than full compliance with GHS saw the primary benefits of adopting the GHS would be in facilitating international trade. As has been addressed throughout the PEA, however, OSHA has based the benefits of this action on improved communication to workers and to health and safety managers and logistics personnel resulting in improved safe handling of hazardous chemicals, not on the trade benefits which, while recognized, have not been quantified. Therefore, OSHA believes that any grandfathering or exemption related to this rule would result in some of these parties not obtaining the same level of benefits of increased comprehensibility as workers in other types and sizes of workplaces.

OSHA welcomes comments on these issues, but in the absence of a clear case for one of the alternatives presented, OSHA will continue to consider the alternative proposed, full compliance with GHS by all U.S. firms, the best alternative.

OSHA considered one other set of alternatives to the proposed rule: changing the proposed three-year duration of the phase-in. A shorter phase-in period was criticized by all commenters both because of feasibility issues and for radically increasing compliance costs. OSHA did examine the costs and benefits of a longer phase-in, over a five-year period, and found that the longer phase-in would lower annualized costs from $97 million to $88 million per year, but would also lower the annualize benefits from $851 million per year to $693 million per year, with the ultimate effect of lowering net benefits. Even the lowering of costs may be somewhat illusory because these estimates do not take account of the additional confusion caused by having two different systems in place for an additional two years.

I. Environmental Impacts

The provisions of this proposal have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500–1508), and the DOL NEPA Procedures (29 CFR part 11). As a result of this review, OSHA has determined that the proposed standards would have no significant adverse effect on air, water, or soil quality, plant or animal life, use of land, or other aspects of the environment. OSHA anticipates that the more complete and easier-to-understand SDSs resulting from this proposal would, in addition to increasing employee health and safety, have positive effects on the environment.

J. Unfunded Mandates Reform Act Analysis

Section 3 of the Occupational Safety and Health Act makes clear that OSHA cannot enforce compliance with its regulations or standards on the U.S. government ''or any State or political subdivision of a State.'' Under voluntary agreement with OSHA, some States enforce compliance with their State standards on public sector entities, and these agreements specify that these State standards must be equivalent to OSHA standards. Thus, although OSHA may include compliance costs for affected public sector entities in its analysis of the expected impacts associated with a proposal, the proposal would not involve any unfunded mandates being imposed on any State or local government entity.

Based on the analysis presented in this preliminary economic analysis, OSHA concludes that the proposal would impose a Federal mandate on the private sector in excess of $100 million in expenditures in any one year. Accordingly, this preliminary economic analysis of the proposed revisions to the HCS constitutes the written statement containing a qualitative and quantitative assessment of the anticipated costs and benefits of the Federal mandate, as required under Section 202(a) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532(a)).

K. Sensitivity Analysis

The methodology and calculations underlying the estimation of the compliance costs, benefits, and economic impacts associated with this rulemaking are generally linear and additive in nature. Thus, the sensitivity of the results and conclusions of the analysis will generally be proportional

to variations in the relevant input parameters.

For example, if the estimated time that companies need to reclassify chemical hazards and revise SDSs and labels were doubled, the corresponding labor costs (but not software costs) of reclassification and revision of SDSs and labels would double as well.

OSHA evaluated a series of such changes in input parameters to test whether and to what extent the general conclusions of the economic analysis held up. On the whole, OSHA found that the conclusions of the analysis are reasonably robust, as changes in any of the input parameters tend not to produce disproportionately large changes in the results. The results also show significant net benefits for the proposed rule regardless of the individual revisions to costs, benefits, or discount rate. The results of the individual sensitivity tests are summarized in Table VII–8 and are described in more detail below.

In the sensitivity test where OSHA doubled the estimated time that companies need to reclassify chemical hazards and revise SDSs and labels, and estimates of other input parameters remained unchanged, as shown in Table VII–8, the estimated total costs of compliance would increase by $8 million annually, or by about 8 percent, while net benefits would also decline by $8 million, from $754 million to $746 million annually.

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Sensitivity Tests

Impact Variable	OSHA's Best Estimate	Sensitivity Test	Impact on Annualized Costs or Benefits	Percentage Impact on Costs or Benefits	Adjusted Annualized Costs or Benefits	Adjusted Annualized Net Benefit
Cost				**Percentage Cost Impact**	**Adjusted Costs**	
OSHA's Best Estimate of Annualized Total Cost and Annualized Net Benefits					*$97 million*	*$754 million*
Time to Reclassify Chemicals; Revise SDSs and Labels	5.1 hours	100 % increase	$8 million	8%	$105 million	$746 million
Number of SDSs	880,260	50% increase	$5.5 million	6%	$103 million	$748 million
Number of Employers Requiring Training	41.6 million	50% increase	$22 million	23%	$119 million	$732 million
Training Time Per Employee	0.42 hours	100% increase	$44 million	45%	$141 million	$710 million
Benefit				**Percentage Benefit Impact**	**Adjusted Benefits**	
OSHA's Best Estimate of Annualized Total and Net Benefits					*$851 million*	*$754 million*
Reduced Injuries, Illnesses, and Fatalities Relative to HCS Estimate	1%	0.5%	$133 million	16%	$728 million	$621 million
	1%	5%	$1,064 million	125%	$1,915 million	$1,818 million
Savings due to Improved Efficiency in Creating and Revising SDSs	3.2 hours	50% decrease	$8 million	1%	$843 million	$746 million
Savings due to Improved Efficiency of S&H Managers and Logistics Personnel	3%, 15%	67% decrease	$313 million	37%	$538 million	$441 million
Discount Rate	7%	3%	$89 million	12%		$843 million

In a second sensitivity test, when OSHA increased the estimated total number of affected SDSs addressed by this rulemaking by 50 percent, the

corresponding estimated total cost of reclassification and revision of SDSs and labels increased by 50 percent as well. As shown in Table VII–8, if OSHA's estimates of other input parameters remained unchanged, the total estimated costs of compliance would increase by $5.5 million annually, or by about 6 percent, while net benefits would also decline by $5.5 million annually, from $754 million to $748 million annually.[17]

In a third sensitivity test, when OSHA increased by 50 percent the estimated number of employees required to be covered by hazard communication programs and to be trained on GHS, the corresponding estimate of the total costs associated with training employees increased by 50 percent. As shown in Table VII–8, if OSHA's estimates of other input parameters remained unchanged, the total estimated costs of compliance would increase by $22 million annually, or by about 23 percent, while net benefits would also decline by $22 million annually, from $754 million to $732 million annually.

In a fourth sensitivity test, when OSHA doubled the estimated incremental amount of time necessary for training employees on GHS, the corresponding estimate of the total costs associated with training employees also doubled. As shown in Table VII–8, if OSHA's estimates of other input parameters remained unchanged, the total estimated costs of compliance would increase by $44 million annually, or by about 45 percent, while net benefits would also decline by $44 million annually, from $754 million to $710 million annually.

OSHA also performed sensitivity tests on several input parameters used to estimate the benefits of the proposed rule. In one sensitivity test on benefits, OSHA reduced its estimate of health and safety benefits of the proposed rule from 1 percent to 0.5 percent of the benefits estimated for the existing HCS. As shown in Table VII–8, if OSHA's estimates of other input parameters remained unchanged, the total estimated benefits of the proposed rule would decline by $133 million annually, or by about 16 percent, while net benefits would also decline by $133 million annually, from $754 million to $610 million annually.

In a second, parallel sensitivity test on benefits, OSHA increased its estimate of health and safety benefits of the proposed rule from 1 percent to 5 percent of the benefits estimated for the existing HCS. As shown in Table VII–8, if OSHA's estimates of other input parameters remained unchanged, the total estimated benefits of the proposed rule would increase by $1,064 million annually, or by about 125 percent, while net benefits would also increase by $1,064 million annually, from $754 million to $1,818 million annually.

In a third sensitivity test on benefits, OSHA reduced its estimate of savings due to the improved efficiency in creating and revising SDSs under GHS by 50 percent. As shown in Table VII–8, if OSHA's estimates of other input parameters remained unchanged, the total estimated benefits of the proposed rule would decline by $8 million annually, or by about 1 percent, while net benefits would also decrease by $8 million annually, from $754 million to $746 million annually.

In a fourth sensitivity test on benefits, OSHA reduced its estimate of savings due to the improved efficiency of safety and health managers and logistics personnel by 67 percent. As shown in Table VII–8, if OSHA's estimates of other input parameters remained unchanged, the total estimated benefits of the proposed rule would decline by $313 million annually, or by about 37 percent, while net benefits would also decrease by $313 million annually, from $754 million to $441 million annually.

OSHA also examined the effect of a change in the discount rate on the annualized costs and benefits. Changing the discount rate from 7 percent, used in the base case, to 3 percent would have the effect of lowering the costs to $73 million per year and increasing the benefits to $916 million per year. The result, as shown in Table VII–8, would be to increase net benefits by $89 million per year, from $754 million to $843 million per year.

OSHA also considered the sensitivity of its findings that the proposed rule is economically feasible and does not have a significant economic impact on a substantial number of small entities. Since the estimated potential negative impacts of the rulemaking are relatively small, these impacts would remain small even with relatively large changes in the input parameters. For example, even if the total estimated costs of compliance were increased by a factor of five, these costs would still represent less than 0.002 percent of revenues, and no industry or size class would have costs in excess of 5 percent of profits or 1 percent of revenues.

In conclusion, the sensitivity analysis demonstrates that even with relatively large variations in the input parameters, there would not be any disproportionately large changes in the estimates of compliance cost or benefits. Further, even if there were relatively large uncertainties in the estimates of compliance costs and benefits, there would still be a relatively high confidence in OSHA's finding concerning economic feasibility, the certification that the standard will not have significant economic impacts on a substantial number of small firms, and the conclusion that the benefits exceed the costs.

OSHA welcomes input from the public regarding all aspects of this sensitivity analysis, including any data or information regarding the accuracy of the preliminary estimates of compliance costs and benefit and how the estimates of costs, benefits, and economic impacts may be affected by varying assumptions and methodological approaches.

VIII. OMB Review Under the Paperwork Reduction Act of 1995

The proposed modifications to the Hazard Communication Standard would revise existing Hazard Communication collection of information (paperwork) requirements that are currently approved by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (''PRA–95''), 44 U.S.C. 3501 *et seq.,* and OMB's regulations at 5 CFR part 1320. The Paperwork Reduction Act defines ''collection of information'' as ''the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency regardless of form or format.'' (44 U.S.C. 3502(3)(A).) OSHA has submitted the proposed revised Hazard Communication collection of information requirements identified in this NPRM to the OMB for review in accordance with 44 U.S.C. 3507(d).

As part of its continuing effort to reduce paperwork and respondent burden, the Department of Labor conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA–95 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collections instruments are clearly understood, and OSHA's estimate of burden is accurate. The Department notes that a Federal agency cannot conduct or sponsor a

[17] For this sensitivity analysis, OSHA calculated only the impact on costs of an increase in the number of SDSs. However, in principle, each additional SDS would yield future benefits due to improved efficiencies in creating and revising SDSs under GHS. Although not shown in Table VII–8, this effect would increase benefits by $8 million annually, more than offsetting the $5.5 million annual cost increase.

collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. OSHA will publish a notice of OMB's action at the final rule stage.

OSHA solicits comments on the modified collection of information requirements and the estimated burden hours associated with these collections, including comments on the following:

- Whether the proposed collection of information requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated or other technological techniques for collecting and transmitting information.

The title, description of the need for and proposed use of the information, description of the respondents, and frequency of response of the information collections are described below, along with an estimate of the annual reporting burden and cost as required by 5 CFR 1320.5(a)(1)(iv) and 1320.8(d)(2).

Title: Proposed Changes to the Hazard Communications Standard (Globally Harmonized System of Classification and Labeling of Chemicals (GHS)).

Description and Proposed Use of the Collections of Information: The proposed Standard would modify existing information collection requirements that are currently approved under OMB Control Number 1218–0072 (Expiration Date: October 2009). OSHA has submitted the proposed modification of the Hazard Communication Standard to OMB and has requested a new OMB control number addressing the proposed modification. OSHA will maintain OMB approval of the existing collections of information contained in the Hazard Communication Standard, under OMB Control Number 1218–0072.

The proposed revisions to the OSHA Hazard Communication Standard would standardize the hazard communication requirements for products used in U.S. workplaces, and thus provide employees with consistent hazard communication information. Hazard communication is currently addressed by many different international, national, and State authorities. These existing requirements are not always consistent and often contain different definitions of hazards and varying provisions for what information is required on labels and safety data sheets. The proposed revisions would harmonize the U.S. system with international norms and therefore would facilitate international trade. The proposed modifications to the Standard's collection of information requirements include: (1) Revised criteria for classification of chemical hazards; (2) revised labeling provisions that include requirements for use of standardized signal words, pictograms, hazard statements, and precautionary statements; (3) a specified format for safety data sheets; and (4) related revisions to definitions of terms used in the Standard and to requirements for employee training on labels and safety data sheets.

Paragraph (d), ''hazard classification,'' requires chemical manufacturers and importers to evaluate chemicals produced in their workplaces or imported by them to classify their health and physical hazards in accordance with the Standard. For each chemical, the chemical manufacturer or importer must determine the hazard classes, and the category of each class, that apply to the chemical being classified. Employers are not required to classify chemicals unless they choose not to rely on the classification performed by the chemical manufacturer or importer for the chemical. Chemical manufacturers, importers or employers classifying chemicals must identify and consider the full range of available scientific literature and other evidence concerning the potential hazards. There is no requirement to test the chemical to determine how to classify its hazards. Mandatory Appendix A to § 1910.1200 shall be consulted for classification of health hazards, and Mandatory Appendix B to § 1910.1200 shall be consulted for the classification of physical hazards.

For mixtures, chemical manufacturers, importers, or employers evaluating chemicals must follow the procedures described in Appendixes A and B to § 1910.1200 to classify the hazards of the chemicals, including determinations regarding when mixtures of the classified chemicals are covered by the Standard. A chemical manufacturer or importer of a mixture is responsible for the accuracy of the classification of the mixture even when relying on the classifications for individual ingredients received from the ingredient manufacturers or importers on the safety data sheets.

Paragraph (f) modifies existing label requirements by requiring more specific information. Paragraph (f)(1) requires chemical manufacturers, importers, or distributors to ensure that each shipped container of classified hazardous chemicals leaving the workplace is labeled, tagged, or marked with the following information:

(i) Product identifier;
(ii) Signal word;
(iii) Hazard statement(s);
(iv) Pictogram(s);
(v) Precautionary statement(s);
(vi) Name, address, and telephone number of the chemical manufacturer, importer, or other responsible party; and
(vii) Supplemental information as appropriate.

Information provided under (i) through (v) above must be in accordance with mandatory Appendix C, *Allocation of Label Elements,* for each hazard class and associated hazard category for the hazardous chemical; prominently displayed; and in English (other languages may also be included if appropriate). In addition, the information in (ii) through (iv) must be located together on the label, tag, or mark.

For containers of hazardous chemicals that do not fall into one of the new hazard classes, (f)(2) requires that the label include the name of the chemical, the name, address, and telephone number of the manufacturer, importer, or other responsible party, and, as supplementary information, a description of the unclassified hazards and appropriate precautionary measures to ensure the safe handling and use of the chemical.

For labels in the workplace, except as provided in paragraphs (f)(8) and (f)(9) of the Standard, employers must ensure that each container of hazardous chemicals in the workplace is labeled, tagged, or marked with either (i) the information specified under (f)(1)(i) through (v) for labels on shipped containers: or, (ii) product identifier and words, pictures, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals, and which, in conjunction with the other information immediately available to employees under the hazard communication program, will provide employees with the specific information regarding the physical and health hazards of the hazardous chemical.

OSHA is also proposing to update the language for workplace signs and labels to incorporate the GHS hazard statement and the applicable precautionary statement(s), where required. Most OSHA substance-specific health standards require hazard warning signs, usually for regulated areas, and the language required on the signs varies. With the GHS revision, these standards retain the requirements for specific warning language for specific signs; however, OSHA is proposing to modify the language to be compatible with GHS and consistent throughout the OSHA standards. The GHS classification process for a specific substance as proposed in this revision of the HCS will dictate the hazard warnings and the precautionary statements that will be required on the new GHS-compliant labels. OSHA believes that having signs and labels in the same formats and containing identical warnings for the same health effects will make it far easier for employers and employees to quickly recognize the hazard and the degree of danger of a hazard, thus enhancing communication.

The proposal modifies the requirements for signs and labels found in the Agency's health standards listed below. Since OSHA is providing specific language for signs and for labels on containers of contaminated clothing, waste and debris, the Agency is exempted from taking burden hours and costs for these provisions. (*See* 5 CFR 1320.2(c)(2) (''Controlling paperwork burden on the public'')). The Agency is taking burden hours and costs for employers to label, tag, or mark each container of hazardous chemicals with either (i) the information specified under (f)(1)(i) through (v) for labels on shipped containers: or, (ii) product identifier and words, pictures, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals.

GENERAL INDUSTRY

Asbestos 1910.1001	1218–0133
13 Carcinogens 1910.1003	1218–0085
Vinyl Chloride 1910.1017	1218–0010
Inorganic Arsenic 1910.1018	1218–0104
Lead 1910.1025	1218–0092
Chromium (VI) 1910.1026	1218–0252
Cadmium 1910.1027	1218–0185
Benzene 1910.1028	1218–0129
Coke Oven Emissions 1910.1029	1218–0128
Cotton Dust 1910.1043	1218–0061
1,2-dibromo-3-chloropropane 1910.1044	1218–0101
Acrylonitrile 1910.1045	1218–0126
Ethylene Oxide 1910.1047	1218–0108
Formaldehyde 1910.1048	1218–0145
Methylenedianiline 1910.1050	1218–0184

GENERAL INDUSTRY—Continued

1,3-Butadiene 1910.1051	1218–0170
Methylene Chloride 1910.1052	1218–0179
Hazard Communication 1910.1200	1218–0072

Construction Industry

Methylenedianiline 1926.60	1218–0183
Lead 1926.62	1218–0189
Asbestos 1926.1101	1218–0134
Chromium 1926.1126	1218–0252
Cadmiun 1926.1127	1218–0186

Paragraph (g)(2) requires the chemical manufacturer or importer preparing the safety data sheet (SDS) to ensure that it is in English (although the employer may maintain copies in other languages as well), and include the following section numbers and headings, and associated information under each heading, in the order listed (see Appendix D to § 1910.1200—Safety Data Sheets, for the specific content of each section of the safety data sheet).

(i) Section 1, Identification;

(ii) Section 2, Hazard(s) identification;

(iii) Section 3, Composition/information on ingredients;

(iv) Section 4, First-aid measures;

(v) Section 5, Fire-fighting measures;

(vi) Section 6, Accidental release measures;

(vii) Section 7, Handling and storage;

(viii) Section 8, Exposure controls/personal protection;

(ix) Section 9, Physical and chemical properties;

(x) Section 10, Stability and reactivity;

(xi) Section 11, Toxicological information.

Note 1 to paragraph (g)(2): To be consistent with the GHS, an SDS must also include the following headings in this order:

Section 12, Ecological information;

Section 13, Disposal considerations;

Section 14, Transport information; and

Section 15, Regulatory information.

Note 2 to paragraph (g)(2): OSHA will not be enforcing information requirements in sections 12 through 15, as these areas are not under its jurisdiction.

(xii) Section 16, Other information, including date of preparation or last revision.

Paragraph (g)(5) requires the chemical manufacturer, importer or employer preparing the safety data sheet to ensure that the information provided accurately reflects the scientific evidence used in making the hazard classification. If the chemical manufacturer, importer or employer preparing the safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information must be added to the safety data sheet within three months. If the chemical is not currently being produced or imported, the chemical manufacturer or importer must add the information to the safety data sheet before the chemical is introduced into the workplace again.

Paragraph (g)(11) requires that employers ensure the safety data sheets are readily available, upon request, to designated representatives, the Assistant Secretary, and the Director, in accordance with the requirements of 29 CFR 1910.1020(e).

Affected Public: Business or other for-profit.

Number of Respondents: 90,801 firms producing Safety Data Sheets and labels.

Frequency: One time.

Average Time per Response: Time to convert Safety Data Sheets and labels to the new system ranges from 7 hours for establishments having between 1 to 19 employees; to 3 hours for establishments having greater than 500 employees.

Estimated Total Burden Hours: 2,125,414.

Estimated Costs (Operation and Maintenance): $32,055,258.

Submitting comments. Members of the public who wish to comment on the paperwork requirements in this proposal should send their written comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; *Attn:* OSHA Desk Officer (RIN 1218–AC20). The Agency encourages commenters also to submit their comments on these paperwork requirements to the rulemaking docket, along with their comments on other parts of the proposed rule. Comments may be submitted by using the Federal eRulemaking portal at *http://www.regulations.gov.* Comments and submissions are posted without change; therefore OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. For instructions on submitting these comments to the rulemaking docket, see the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES.**

Docket and inquiries. To access the docket in order to read or download comments and other materials related to this paperwork determination, including the complete Information Collection Request (ICR) (containing the Supporting Statement (describing the paperwork determinations in detail) and

attachments), use the procedures described under the section of this notice titled **ADDRESSES**. To make inquiries, or to request other information, contact Mr. Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

IX. Federalism

The Agency reviewed the proposed Hazard Communication Standard according to the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999). This Executive Order requires that Federal agencies, to the extent possible, refrain from limiting State policy options, consult with States before taking actions that restrict their policy options, and take such actions only where there is constitutional and statutory authority to do so and the problem is of national significance. The Executive Order generally allows Federal agencies to preempt State law only where there is clear evidence of Congressional intent to allow it, or where the exercise of State authority would conflict with the exercise of Federal authority under a statute; in such cases, Federal agencies must limit preemption of State law to the extent possible. Section 18 of the Occupational Safety and Health Act (the ''Act'' or ''OSH Act''), 29 U.S.C. 667, expresses Congress' clear intent to preempt State laws with respect to issues for which OSHA has promulgated an occupational safety and health standard under section 6 of the Act. Under section 18 of the Act, a State may avoid preemption only if it submits and obtains OSHA approval of an occupational safety and health plan. *See Gade* v. *National Solid Wastes Management Association,* 112 S. Ct. 2374 (1992).

With respect to States that do not have OSHA-approved plans, the Agency concludes that this proposal falls under the preemption provisions of the Act. Additionally, section 18 of the Act prohibits States without approved plans from issuing citations for violations of OSHA standards; the Agency finds that this proposed rulemaking does not expand this limitation. OSHA has authority under Executive Order 13132 to propose a Hazard Communication Standard because the problems addressed by these requirements are national in scope.

Section 18(c)(2) of the Act permits State-plan states to develop their own requirements to deal with any special workplace problems or conditions, provided, inter alia, these requirements are at least as effective as the Federal standards promulgated under section 6 of the Act. Although a State standard becomes effective in accordance with State promulgation provisions, and is enforceable upon promulgation, OSHA must also review and approve the standard to assure that it is ''at least as effective'' as the Federal standard. OSHA intends to closely scrutinize State hazard communication standards submitted under current or future State plans to assure equal or greater effectiveness, including assurance that any additional requirements do not conflict with, or adversely affect, the effectiveness of the national application of OSHA's standard. OSHA must determine in its review whether any State plan standard provisions that differ from the Federal provisions, when applicable to products distributed or used in interstate commerce, are ''required by compelling local conditions and do not unduly burden interstate commerce.'' OSH Act section 18(c), 29 U.S.C. 667(c).

X. State Plans

The 26 States and territories with their own OSHA-approved occupational safety and health plans must adopt comparable provisions within six months after the Agency publishes a final standard. These States and territories are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Connecticut, New Jersey and New York have OSHA approved State Plans that apply to State and local government employees only. Each state-plan State's existing requirements will continue to be in effect until it adopts the required revisions.

XI. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, an agency must prepare a written ''qualitative and quantitative assessment'' of any regulation creating a mandate that ''may result in the expenditure by the State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more'' in any one year before issuing a notice of proposed rulemaking. OSHA's proposal does not place a mandate on State or local governments, for purposes of the UMRA, because OSHA cannot enforce its regulations or standards on State or local governments. (See 29 U.S.C. 652(5).) Under voluntary agreement with OSHA, some States enforce compliance with their State standards on public sector entities, and these agreements specify that these State standards must be equivalent to OSHA standards. The OSH Act also does not cover tribal governments in the performance of traditional governmental functions, though it does when tribal governments engage in commercial activity. However, the proposal would not require tribal governments to expend, in the aggregate, $100,000,000 or more in any one year for their commercial activities. Thus, although OSHA may include compliance costs for affected governmental entities in its analysis of the expected impacts associated with a proposal, the proposal does not trigger the requirements of UMRA based on its impact on State, local, or tribal governments.

Based on the analysis presented in the Preliminary Economic Analysis (section VII above), OSHA concludes that the proposal would impose a Federal mandate on the private sector in excess of $100 million in expenditures in any one year. The Preliminary Economic Analysis constitutes the written statement containing a qualitative and quantitative assessment of the anticipated costs and benefits required under Section 202(a) of UMRA (2 U.S.C. 1532).

XII. Protecting Children From Environmental Health and Safety Risks

Executive Order 13045 requires that Federal agencies submitting covered regulatory actions to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866 must provide OIRA with (1) an evaluation of the environmental health or safety effects that the planned regulation may have on children, and (2) an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency. Executive Order 13045 defines ''covered regulatory actions'' as rules that may (1) be economically significant under Executive Order 12866 (*i.e.,* a rulemaking that has an annual effect on the economy of $100 million or more, or would adversely effect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities), and (2) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children. In this context, the term ''environmental health risks and safety risks'' means risks to health or safety that are attributable to products or substances

that children are likely to come in contact with or ingest (*e.g.,* through air, food, water, soil, product use). The proposed HCS is economically significant under Executive Order 12866 (see section VII of this preamble). However, after reviewing the proposed HCS, OSHA has preliminarily determined that the standard would not impose environmental health or safety risks to children as set forth in Executive Order 13045.

XIII. Environmental Impacts

The Agency reviewed the proposed Hazard Communication Standard according to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 CFR part 1500), and the Department of Labor's NEPA procedures (29 CFR part 11).

As a result of this review, OSHA has made a preliminary determination that the proposed HCS will have no impact on air, water, or soil quality; plant or animal life; or the use of land or aspects of the external environment. Therefore, OSHA concludes that the proposed HCS would have no significant environmental impacts.

XIV. Public Participation

OSHA encourages members of the public to participate in this rulemaking by submitting comments on the proposal.

Written Comments. OSHA invites interested persons to submit written data, views, and arguments concerning this proposal. In particular, OSHA encourages interested persons to comment on the issues raised in section II of this preamble. When submitting comments, persons must follow the procedures specified above in the sections titled **DATES** and **ADDRESSES**. The comments must clearly identify the provision of the proposal you are addressing, the position taken with respect to each issue, and the basis for that position. Comments, along with supporting data and references, received by the end of the specified comment period will become part of the record, and will be available for public inspection and copying at the OSHA Docket Office as well as online at *www.regulations.gov* (Docket Number H022K–2006–0062).

Informal Public Hearing. Pursuant to section 6(b)(3) of the Act, members of the public will have an opportunity to provide oral testimony concerning the issues raised in this proposal at informal public hearings. The hearings will be announced in the **Federal Register**.

XV. Summary and Explanation of the Proposed Standard

The advance notice of proposed rulemaking (ANPR) published by OSHA on September 12, 2006 (71 FR 53617) included a series of questions to solicit information on a number of specific topics. The responses from more than 100 commenters have been used by the Agency to help prepare the required analyses for this rulemaking, as well as to make determinations regarding the proposed text. The discussion below on each paragraph of the proposed standard addresses the comments that were related to those subjects, and the discussion on the regulatory impact analysis in Section VII of this preamble refers to responses related to that topic.

In addition to the responses to specific questions in the ANPR, OSHA has also received general comments covering topics such as statements of support for the rulemaking, approaches or principles to follow in the rule, suggestions for outreach and compliance assistance, and other subjects of concern. Before addressing the specific paragraphs of the proposed rule, we would like to discuss these general comments.

Support for the rulemaking. Many of those who responded to the ANPR expressed their support for adoption and implementation of the GHS. The supporters far out numbered those who opposed or questioned adoption (*see, e.g.,* Document ID #s 0003, 0007, 0047, 0050, 0052, 0062, 0106, 0011, 0033, 0038, 0123, 0130, 0151, 0163, and 0171). The reasons presented for this support varied, but included the belief that adoption of the GHS will bring consistency and clarity to hazard communication (*e.g.,* Document ID #s 0046, 0059, 0081, and 0038); will help to ensure that employees have reliable, consistent, comprehensive and comprehensible information (*e.g.,* Document ID #s 0054, 0030, 0037, and 0124); will help to enhance human health and the environment (improved worker safety) *(e.g.,* Document ID #s 0064, 0081, 0032, and 0128); and will reduce burdens associated with preparing multiple classifications and labels for the same product (*e.g.,* Document ID #s 0048, 0080, 0030, and 0123).

Support for implementation of the GHS by OSHA was expressed by both users and producers of chemicals. For example, the Aerospace Industries of America, Inc., representing companies that are generally large users of chemicals, identified many of these benefits in its statement of support (Document ID # 0054):

> AIA supports OSHA's current efforts to adopt the GHS and its past participation in the development of the UN's GHS for classification and communication of chemical hazards. We believe that the GHS adoption will help bring consistency and clarity to national and international regulation of hazardous chemicals and will help ensure that employers and employees have reliable, consistent, and comprehensive information on hazardous chemicals in the workplace. With the great diversity in the current systems of hazard communications globally, where MSDSs and chemical labels and classification systems vary in content details and length, type of information, format, and depth of hazard warnings and procedures, there is often inconsistency, redundancy, and incompatibility in labels developed by manufacturers and distributors. This often results in confusion for workers who try to interpret the MSDSs and labels, particularly across differing industry sectors and geographic areas where language, culture, and levels of experience and training may vary. OSHA's proposal to adopt applicable provisions of the GHS into the U.S. workplace is a positive step in working toward developing standardized, uniform, classification, labeling, and related procedures for worker hazard communications systems.

The United Parcel Service, Inc., also a user of chemicals as well as a transporter, supported implementation of the GHS too (Document ID # 0064):

> UPS is pleased to support OSHA's adoption of the GHS and applauds the publication of the ANPRM as an important step toward implementation. We believe that the implementation of the GHS has the potential to (1) contribute to the safety of workers through standardized and more easily understood Safety Data Sheets (''SDSs''); (2) streamline domestic hazard classification and labeling across all pertinent U.S. agencies (OSHA, EPA, DOT, CPSC); and (3) facilitate international trade in chemical-based products by harmonizing hazard communication requirements across national borders. UPS also recognizes that the current HAZCOM standard, while not perfect, has helped promote the safety and health of American workers. We believe that OSHA can reap the benefits of the GHS without compromising the substantial benefits of the existing HAZCOM regime.

The American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), representing employees exposed to chemicals in the workplace, also recognized the value of revising the HCS to adopt the GHS provisions (Document ID # 0124):

> [T]he GHS offers a standardized and specific approach to the creation of labels and Safety Data Sheets (SDS), with a set format, content and order. Additionally, the GHS has an established set of hazard criteria and employs the use of standardized pictograms. We believe these elements of the GHS, when incorporated into the HCS, will assist greatly in generating labels and SDS's

that are vastly more consistent and comprehensible in comparison to the current MSDS's and labels. The improved consistency will also increase the ability to communicate the hazard information to workers. The AFL–CIO fully supports the efforts of OSHA to modify the HCS so that these objectives are realized.

Similarly, DuPont, a major chemical manufacturer, also expressed its support for pursuing harmonization through adoption of the GHS (Document ID # 0038):

DuPont supports OSHA adoption of the GHS and the publication of this ANPRM as a concrete step towards implementation of the GHS in the United States. DuPont urges OSHA to use the information received in response to this ANPRM and move quickly and judiciously to the next step towards a globally harmonized system—publication of a proposed rule. DuPont believes that implementation of the GHS will mean that workers who must handle hazardous chemicals will find hazard information presented in a standardized and more comprehensible manner. DuPont also believes that implementation of the GHS will ultimately reduce the costs to businesses of classifying chemicals as to their hazards and creating warning labels and safety data sheets.

While support for implementation of the GHS was widespread in the comments, these supporters also recognized the challenges associated with implementation. For example, it was noted by a number of commenters that there will be short-term costs associated with implementation, and they urged OSHA to take steps to minimize them by providing a reasonable time period for phase-in, coordinating with other agencies, and providing extensive outreach (*see, e.g.,* Document ID #s 0032, 0111, 0155, 0157, and 0162). As will be addressed in other parts of this preamble, OSHA also recognizes the costs associated with implementation of the changes necessitated by adoption of the GHS, and has taken a number of steps to address them, including those recommended by these and other commenters.

Others were concerned that the GHS is not completely harmonized because it allows countries and agencies within countries, to select from among a collection of building blocks when determining the scope of their requirements (*e.g.* Document ID # 0076). The GHS was designed in this manner because the existing systems all had scope accommodations for different sectors. For example, the most notable difference among sectors involves transport of dangerous goods and the workplace. In the transport sector, only those hazards which involve the types of exposures expected to be encountered in transport are covered. In the area of health effects, this has been defined as acute health effects, and the transport sector does not include any chronic health hazards in its coverage. Representatives of transport authorities involved in the negotiations indicated that this coverage was considered appropriate, and the building block concept that allowed them to continue to have that scope was necessary to include transport within the GHS. On the other hand, workplace authorities are concerned about chronic health hazards occurring as a result of workplace exposures, and expected the GHS to include those types of effects. Thus the GHS does not specify that all provisions should be applied to all sectors.

However, as will be addressed below in specific paragraphs where this may be a concern, OSHA does not presently preclude employers from including additional information on labels and safety data sheets to address areas that are not covered by OSHA, and would not do so when implementing the proposed revisions. For example, where employers are preparing labels and SDSs for products that will be marketed in both the consumer and the workplace sector, additional information on acute toxicity at lower levels of concern may be included for the consumer sector without violating any current or proposed OSHA requirements. Similarly, information regarding transportation and environmental concerns may be included on SDSs required by OSHA. However, the Agency only enforces the standard with regard to the information required under its own provisions. The same situation would apply in implementation of the proposed revisions.

In addition to those who supported implementation, but raised areas of concern regarding the way in which it is pursued, there were others who did not support implementation (Document ID #s 0004, 0065, 0068, and 0108). These commenters argued that it would be too financially burdensome (Document ID # 0004); delegates power to an international body which can only be accomplished through a treaty, if at all (Document ID # 0065); would change the current hazard communication scheme and thus potentially impair safety (Document ID # 0065); and should not be applied to pesticides because they are already heavily regulated (Document ID # 0108).

With regard to the costs and economic impacts, OSHA has prepared extensive analyses of the costs, benefits, and economic impacts of the rules, which are summarized in Section VII of this preamble. The Agency has preliminarily concluded that the draft proposed standard is an economically significant rule under E.O. 12866 in that the costs exceed $100 million in each of the first three years. However, OSHA will certify that a regulatory flexibility analysis is not necessary under the Regulatory Flexibility Act (RFA), because although the proposed standard will affect a substantial number of small firms, the impacts do not rise to the level of significance that would require a regulatory flexibility analysis under the RFA.

Section VI of the preamble addresses the legal authority of the Agency to pursue this rulemaking. OSHA believes that adoption of the GHS through rulemaking is the appropriate mechanism to achieve this increased protection for exposed employees as well as global harmonization, and that a treaty is not the only means to accomplish this goal. More importantly, however, adoption of the GHS through rulemaking does not delegate ''power to an international body'' as argued by the National Association of Home Builders (Document ID # 0065). NAHB also argues that the proposal would allow hazard determinations ''to be based on something other than fact and scientific evidence.''

This rulemaking process is the legal means to modify the current HCS requirements to make them consistent with GHS. Promulgation of the GHS modifications and implementation of the revised HCS will be by OSHA under the Agency's authority in the OSH Act. No international body will dictate the terms of the adoption. Moreover, there will be no international body with any authority in American workplaces with regard to hazard communication. Furthermore, the hazard determination process under the HCS is currently based on an evaluation of scientific facts and evidence, and would continue to be so under the revised HCS as proposed. The proposed revisions simply provide more extensive guidance on the scientific approach to hazard classification to help ensure a consistent evaluation process by multiple chemical manufacturers. As will be discussed in other parts of this preamble, OSHA believes that adoption of the GHS would lead to increased accuracy and reliability in evaluations of scientific evidence, and thus better information for employers and employees to use to protect them in the workplace.

OSHA believes that arguments presented in this preamble, and the accompanying analyses, indicate that pursuing modifications to the HCS will

enhance employee protection, as well as ultimately facilitate compliance for all companies including those in the construction industry that use hazardous chemicals.

Therefore, while OSHA did not include questions regarding the support of stakeholders for adoption of the GHS, it is clear that a majority of those responding to the ANPR support moving forward with the rulemaking. The arguments presented by those few who actively objected to adoption have been addressed in this preamble and the analyses for the rule, and have not been found persuasive. Other issues raised by supporters as concerns or suggestions for addressing concerns, have also been addressed in the proposed rule. While OSHA has addressed many of the identified issues in the proposal, the Agency recognizes that stakeholder input is needed to resolve some of the concerns, and these have been described in Section II.

Other general issues. Commenters also raised a number of other issues related to the rulemaking that were not directed to specific paragraphs of the HCS. Some respondents indicated that OSHA should limit changes to the HCS to those required to align with the GHS, thus keeping the framework of the existing HCS (*see, e.g.,* Document ID #s 0047, 0080, 0104, 0123, 0145, 0163, 0167, and 0170). For example, ORC Worldwide (Document ID # 0123) stated:

> * * *[O]SHA can help minimize the cost to businesses by only modifying those sections of the OSHA Hazard Communication Standard (HCS) that must be changed to be consistent with GHS. Therefore, we strongly support OSHA's stated intent to maintain the current scope, application, and interpretations of the HCS, and only modify those sections of the standard necessary for consistency with the GHS. Not only will this help minimize the implementation burden on industry, it should also serve to minimize confusion among employers and employees during the implementation period.

As will be described in greater detail below with regard to specific provisions, OSHA has made every effort to maintain the framework of the current HCS in the proposed revisions. The modifications proposed are believed by OSHA to be those that are required to align the current HCS with the GHS, but do not address provisions of the current standard that are not addressed in the GHS. Thus, for example, the scope and application paragraph remains largely unchanged, as does the paragraph addressing trade secret protection. The primary modifications proposed in these paragraphs are changes in terminology required to ensure consistency.

Many commenters also suggested that OSHA should coordinate implementation of the GHS with other Federal agencies. These included primarily EPA, DOT, and CPSC (*see, e.g.* Document ID #s 0048, 0050, 0053, 0076, 0104, 0111, 0123, 0134, 0154, 0162, and 0170). Others mentioned the Mine Safety and Health Administration (MSHA) (Document ID #s 0049, 0101, and 0111). For example, the Soap and Detergent Association (Document ID # 0170) stated:

> SDA urges OSHA to coordinate implementation of revisions to the HCS related to the GHS with the Environmental Protection Agency (EPA), Department of Transportation (DOT), and the Consumer Product Safety Commission (CPSC), which all have announced their intentions to implement GHS provisions in their regulations. Workplace hazard communication occurs in a stage of the overall life cycle of chemicals and finished products. Coordination and synchronization of implementation timing could greatly improve the efficiency of implementation of the GHS by industry.

OSHA agrees with these commenters that the U.S. government agencies should continue to coordinate their activities with regard to implementation of the GHS. In terms of adopting the GHS provisions, DOT has substantially aligned the criteria for physical hazards in their regulations with those of the GHS under the HM–215I rulemaking (71 FR 78595). EPA and CPSC have not initiated rulemaking on the GHS. Thus at this point, there is little to coordinate in terms of timelines. As rulemaking develops in these Agencies, discussions will continue to take place in the interagency committee on this subject. With regard to MSHA, Department of Labor rulemaking activities are coordinated through Department officials, and MSHA has been apprised of OSHA's activities in order to determine what action may be appropriate for them to pursue in this area.

A number of commenters also argued that OSHA should coordinate implementation with major U.S. trading partners (*see, e.g.,* Document ID #s 0042, 0048, 0101, 0116, 0128, 0141, 0155, and 0170). Similarly, several argued that countries should limit modifications to the GHS that are country-specific, and that the UN process should be used to control such changes (Document ID #s 0042, 0018, 0134, 0154, 0163, 0164, and 0171). For example, the American Petroleum Institute (API) addressed these issues as follows (Document ID # 0171):

> API strongly recommends that OSHA ensure that timing and coordination of GHS implementation schedules are in line with those of other countries, allowing sufficient time for companies to organize and accomplish necessary work. In order to achieve international harmonization of hazard communication materials and to avoid undue burden on companies, OSHA must stay engaged with all other actors to encourage even and consistent implementation of GHS by individual countries. Further, API recommends that OSHA work closely with other government agencies and countries to ensure alignment to the UN endorsed version of the GHS. As the implementation of the GHS by countries deviates from the UN version of GHS, the perceived benefits of harmonization substantially decrease.

OSHA agrees with these commenters that coordination among trading partners would enhance harmonization and facilitate implementation. The Agency remains active in the UN process, participating in the Subcommittee of Experts on the GHS, as well as the UNITAR Programme Advisory Group. There is increased emphasis in the Subcommittee on implementation issues as well as coordination. OSHA led a correspondence group that reviewed implementation of the mixture classification provisions, and modifications to address concerns raised were incorporated into Revision 3 of the GHS to help ensure consistency in approach. OSHA will continue to lead a correspondence group on practical classification and hazard communication issues. In addition, the Subcommittee has established a correspondence group to address broader implementation issues, and OSHA is participating in those deliberations as well.

The Agency has also had bilateral discussions in the past with Canada, as well as the European Union (EU), on issues related to implementation. These are two of the key trading partners for the U.S. The EU has recently revised its overall approach to the regulation of chemicals in a new European Community Regulation (EC 1907/2006) referred to as REACH: Registration, Evaluation, Authorization and Restriction of Chemical substances. The new law entered into force on June 1, 2007, and the provisions will be phased in over 11 years. REACH addresses chemical hazards over the life cycle of a chemical, and gives greater responsibility to industry to manage the risks from chemicals and to provide safety information on substances. Manufacturers and importers will be required to gather information on the properties of their chemical substances,

which will allow their safe handling, and to register the information in a central database run by the new European Chemicals Agency (ECHA). The Agency will act as the central point in the REACH system: it will manage the databases necessary to operate the system, coordinate the in-depth evaluation of suspicious chemicals, and run a public database in which consumers and professionals can find hazard information.

On September 3, 2008, the EU Parliament completed revisions to its longstanding chemical classification and labeling approach to align with the GHS (referred to now as the European Regulation on the Classification, Labelling, and Packaging of Substances and Mixtures). It applies to substances as of December 1, 2010, and mixtures as of June 1, 2015. The final version was published in the EU Official Journal on December 31, 2008.

In terms of these proposed provisions, OSHA examined the European Commission's regulation to coordinate where possible on approaches to implementation. However, the primary principles followed by OSHA in developing this proposal were to ensure that the modifications maintain or enhance the protections of the current standard, and that the modifications are consistent with the negotiated provisions of the GHS.

One of the issues of concern regarding implementation by some other countries has been deviation from the GHS itself. Because GHS is intended to be globally implemented, efforts by countries to deviate in a collective manner from the GHS, rather than maintaining consistency, defeats the purpose, and consequently, lessens the benefits of the GHS. OSHA will continue to seek opportunities to ensure coordination of implementation and promote harmonization, both internationally and bilaterally.

It should also be noted that the GHS is a living document, and the UN actively reviews it and considers possible changes based on implementation experiences and other information. These changes are made on a two-year cycle, referred to as a biennium. The OSHA proposal is based on Revision 3 of the GHS. Revision 3 was adopted by the UN Subcommittee of Experts on the GHS (UNSCEGHS) in December 2008. A compilation of the approved changes is available on the UN Web site (ST/SG/AC.10/36/Add. 3), and the full text of Revision 3 will be accessible later this year. There are a number of clarifications and small modifications in Revision 3 that address inconsistencies or discrepancies in the previous text of the GHS, and these have been incorporated into this proposal.

It is expected that as the UNSCEGHS fulfills its mandate to ensure that the GHS is up-to-date and relevant, further changes will be adopted on a biennium basis. If the change(s) is substantive and controversial, OSHA will have to engage in notice and comment rulemaking in order to amend the HCS. However, for non-substantive or clarification changes, OSHA has rulemaking options available that can be utilized to implement the changes and can be done more quickly than the full notice and comment rulemaking process.

Two possible means are the Standards' Improvement Process (SIPs) or a Direct Final Rule (DFR). Each of these options also gives the public notice and opportunity to comment, but has the advantage of a faster process. Either method could be used to ensure that the HCS remains current with the GHS.

Outreach/Compliance Assistance. The ANPR included a series of questions to solicit input from the public on what outreach or compliance assistance materials would be appropriate and useful. OSHA received many comments in response to these questions, with a number of creative and interesting suggestions for outreach products. The Agency will use this input to develop an outreach plan and prepare materials for distribution when the rulemaking is completed. In addition, and as suggested by a number of commenters (*see, e.g.,* Document ID #s 0047, 0065, 0081, 0104, 0018, 0025, and 0154), OSHA will continue working with its partners, alliances and other interested parties to examine projects that could be completed by them, or in coordination with them, that could be targeted to specific industries or interest groups.

With regard to the questions on the media through which to distribute materials, all of the methods mentioned in the ANPR received considerable support. In addition, a number of commenters indicated that all types of distribution systems should be used to reach the widest audience, including the Web site, electronic tools, PowerPoint presentations, flash videos, a dedicated web page, mail, train-the-trainer sessions, regional workshops, *etc.* All of the possible subjects suggested by OSHA (*e.g.,* hazard classification, labels, and safety data sheets) were also endorsed as being of interest.

Many commenters agreed with OSHA that training on understanding pictograms and symbols, as well as hazard statements, signal words, labels, and SDSs, would be useful for both small businesses and employees (*see, e.g.,* Document ID #s 0044, 0061, 0072, 0028, 0034, 0107, 0139, 0163, and 0170). There were also several recommendations that OSHA prepare a poster with the pictograms that can be displayed in workplaces (Document ID #s 0046, 0047, 0064, 0028, 0123, and 0171).

In addition, it was suggested that training on classification procedures, particularly for mixtures, would be useful, as would software that could complete mixture calculations (*see, e.g.,* Document ID #s 0046, 0054, 0032, 0038, 0128, 0140, and 0154). And a number of respondents believe that OSHA should develop a series of training modules on different aspects of the revised HCS (Document ID #s 0047, 0051, 0080, 0025, and 0135), and provide training online (Document ID #s 0059, 0032, 0125, 0129, 0155, and 0157).

Commenters also suggested that OSHA prepare a comprehensive comparison of the current standard to the revised HCS when completed (Document ID #s 0054, 0135, and 0145), as well as a reference table with different requirements around the world (Document ID #s 0047, 0080, 0123, and 0171). It was also noted that materials should be available in multiple languages (Document ID #s 0046 and 0080).

Other ideas presented included electronic seminars (Document ID # 0064); model programs (Document ID #s 0064, 0076, 0080, 0029, and 0124); toolbox talks (Document ID # 0065); Quick Cards (Document ID # 0065); online inventory lists (Document ID #s 0076 and 0178); Q and A document (Document ID #s 0072 and 0160); hotline (Document ID #s 0077, 0104, 0179, 0140, and 0163); GHS resource CD (Document ID #s 0021 and 0155); SDS template (Document ID #s 0144 and 0145); timely compliance directive (Document ID # 0124); and approximate conversion table for classifications (Document ID #s 0145 and 0163).

The proposed standard. The following is a description of the provisions of the proposed standard. Comments received that were related to the proposed provisions are also addressed.

(a) Purpose. The HCS includes a paragraph that states the purpose of the rule. This stated purpose is two-fold. First, the paragraph indicates that the standard addresses assessment of the hazards of workplace chemicals, and the transmittal of that information to employers and employees. It also describes the contents of a comprehensive hazard communication

program as being container labeling and other forms of warning, material safety data sheets, and employee training.

The second part of the paragraph addresses the preemption of State or local laws by this Federal standard. It indicates that OSHA is addressing comprehensively the issues described, and thus the standard preempts States, and political subdivisions of States, from addressing these issues except under the authority of a Federally-approved State plan under Section 18 of the OSH Act. While Section 18 applies to every occupational safety and health standard that OSHA promulgates, the HCS raises particular issues because of the nature of the provisions. It requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and to prepare labels and material safety data sheets based on those evaluations to transmit hazard information and appropriate precautionary advice to users downstream. This is a unique, but highly appropriate approach for an OSHA standard, as it recognizes that chemical manufacturers and importers are in the best position to assess the hazards of their products and develop appropriate information for labels and SDSs.

There is a national, indeed international, marketplace for industrial chemicals, and thus chemical manufacturers and importers affect commerce within the meaning of the OSH Act and therefore fall under OSHA's jurisdiction. If a State or a political subdivision of a State, were to establish different requirements for labels and safety data sheets, such requirements would have an impact on chemical manufacturers and importers that are not located in that State. This is a burden that the HCS eliminates by establishing national requirements.

The proposed revision to HCS has essentially the same purposes, and OSHA is proposing only minor modifications to this paragraph. Paragraph (a)(1)would change the language regarding the assessment of hazards to indicate that the hazards will be ''classified'' rather than simply assessed or evaluated. This is consistent with the approach in the GHS. In addition, OSHA is proposing to modify this paragraph to clearly indicate that the standard is intended to be consistent with the GHS, Revision 3. That change is a reflection of the purpose of this rulemaking to harmonize the existing requirements with the provisions of the GHS, which is the international instrument that includes globally harmonized provisions on hazard communication. In addition, in this paragraph and succeeding paragraphs of the revised rule, the term ''material safety data sheet'' has been modified to ''safety data sheet'' to reflect the terminology of the GHS.

The only modifications proposed to paragraph (a)(2) also address terminology, using ''classifying'' instead of ''evaluating'', and ''safety data sheet'' instead of ''material safety data sheet''.

There were no specific comments received in response to the ANPR regarding the Purpose paragraph of the HCS. One comment suggested that the standard should be limited to a purpose of international communication so as not to trigger hazard assessments under other OSHA standards that address respiratory protection, personal protective equipment, or process safety management (Document ID # 0049). There were several other comments that indicated that new assessments would have to be done for these standards (Document ID #s 0178, 0111, 0134, and 0164). Arguments were made that this would lead to extensive additional costs for new engineering controls, respirators, or other personal protective equipment.

As discussed above, there is no identified link to these other standards in the stated purpose of the HCS either currently or with the proposed modifications. While the HCS itself requires the provision of information on recommended control measures, including respiratory protection, personal protective equipment, and engineering controls, there is no requirement for employers to implement the recommended controls. All information available to an employer when designing an appropriate protective program must be used, but a recommendation on a safety data sheet by itself would not trigger the need to implement new controls.

Furthermore, these comments seem to imply that there will be major changes in the hazards of chemicals based on implementation of the GHS provisions. Both the HCS and the GHS are based on identifying and communicating the inherent hazards of chemicals. Thus the biggest change for most chemicals under the proposal will be in categorizing the chemical's hazards. Under the current standard, for example, a chemical either is, or is not, a carcinogen. Under the revised HCS, if a chemical is a carcinogen, it would be categorized as a Category 1 or a Category 2 carcinogen. Such a change would not generally result in a need to change engineering controls or respiratory protection.

It is possible that a chemical may be classified under the proposal as having a hazard it did not have before, but OSHA believes that this is not likely to happen frequently given the broad coverage of the current rule. Furthermore, the physical and chemical characteristics of the chemical—which affect the types of protection required—would not be changed as a result of this proposal. OSHA believes that these revisions would result in few, if any, changes in protective measures required under other OSHA standards.

Several commenters noted what they believed to be the continued need to address the preemption of State standards (*see, e.g.,* Document ID #s 0048, 0056, 0080, 0178, 0036, 0123, and 0135). In addition, commenters also noted that the impact of GHS adoption on State and local laws should be considered in the process (for example, California Proposition 65), and that differences between such laws and the revised HCS should be discouraged (Document ID #s 0042, 0072, 0015, and 0038).

It was also indicated that changes in State laws should be coordinated with the Federal changes to facilitate implementation (Document ID # 0146). See Section IX and X of this preamble for a comprehensive discussion regarding Federalism and State plans.

(b) Scope and Application. The HCS is a generic standard that has very broad provisions in terms of chemicals addressed and workplaces covered. It also interfaces with a number of requirements of other Federal agencies that address labeling of chemical hazards. Paragraph (b) thus includes all of the practical modifications the Agency has developed to ensure that employers and employees understand how the standard is to be applied, and to accommodate various circumstances that potentially affect the application of the standard.

The provisions of paragraph (b)(2) in the HCS address the overall scope of the standard as applying to ''any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.'' This provision addresses many questions that are raised about the application of the standard. There was one comment received regarding this paragraph which indicated that hazard classification and labeling of steel for chronic health effects should not result from welding being considered a normal condition of use (Document ID # 0160). OSHA has made it clear in past interpretations of the rule that where such products are intended to be welded, this information must be provided for hazard communication purposes. That

interpretation does not change as a result of the proposed provisions in the revised rule.

In general, OSHA does not expect significant changes in the chemicals covered by the HCS under the proposed revisions as compared to the current standard. The scope of hazards covered by the GHS is very similar to what is covered by the current HCS. Additional chemicals may be considered to be acutely toxic due to the proposed adoption of Category 4 in acute toxicity which would expand the criteria for inclusion from the current definition (see the discussion under ''Hazard classification''). However, these chemicals are already covered under the voluntary national industry consensus standard on precautionary labeling of industrial chemicals (ANSI Z129) that many manufacturers follow in their labeling programs, as well as being covered in the requirements that apply to chemicals shipped to the EU. Thus many manufacturers are already classifying and labeling these chemicals as acute toxins. The proposal is also likely to cover fewer mixtures as acute toxins than the current rule given the hazard classification approach in the GHS that uses a calculation based on proportionality to determine whether a mixture is covered, rather than a strict percentage cut-off of 1%. Other definitions of health hazards would maintain the current broad HCS scope.

In addition to the overall scope statement, the HCS provides for limited coverage in workplace situations that have special circumstances, including laboratories and work operations where employees only handle chemicals in closed containers.

OSHA also addresses the interface with other Federal agency requirements by either exempting the products covered from additional OSHA labeling (such as pesticides required to be labeled by the EPA), or completely exempting the product (such as hazardous waste regulated by EPA). These accommodations help to ensure that Federal requirements do not conflict or duplicate each other.

Under the GHS, such provisions are left under the purview of the ''competent authority''. In developing the GHS, it was recognized that countries' regulatory authorities would need to have the discretion to address such national circumstances in ways that are suited to the regulatory perspective of the country. Thus authorities such as OSHA are free to make determinations about scope and application issues while still being harmonized with the primary provisions of the GHS.

OSHA has reviewed the current provisions of paragraph (b), and has determined that no significant changes are required to be consistent with the GHS. Several minor changes to revise terminology are proposed (involving the terms ''classifying'' and ''safety data sheets''), but OSHA is not proposing to modify any of the remaining provisions of paragraph (b). The Agency is also deleting Appendix E of the current HCS, which was guidance for application of the standard, and thus is deleting the reference to it in paragraph (b)(1). As is discussed elsewhere in this preamble, new outreach and compliance assistance materials are being prepared to replace this appendix and other existing outreach materials.

Several commenters indicated that OSHA should adopt exemptions included by the European Union in its requirements. Specifically, these exemptions address non-isolated intermediates, chemicals involved in research and development, and waste (Document ID #s 0049, 0134, and 0164). All of these situations are already addressed in paragraph (b), and OSHA does not believe it is necessary to change them.

In terms of non-isolated intermediates, the overall scope provision in paragraph (b)(2) adequately addresses this situation. This was specifically addressed in the preamble to the 1983 final rule (48 FR 53335):

> That is, the term ''known'' means the employer need not analyze intermediate process streams, for example, to determine the presence or quantity of trace contaminants. However, where the employer knows of such contaminants, and they are hazardous, then they fall under the provisions of the standard.

With regard to chemicals involved in research and development, paragraph (b)(3) limits coverage in laboratories, and partially addresses this situation. Where there is no knowledge of the hazards of such chemicals, the HCS does not apply at all since there is no requirement to generate new hazard information. Where information is available, it must be provided to exposed employees, consistent with paragraph (b)(3) when it is in a laboratory situation. Therefore, it appears to OSHA that this situation is also adequately addressed under the current provisions. Hazardous waste as regulated by EPA is already exempted under paragraphs (b)(6)(i) and (ii).

There were commenters who suggested that OSHA maintain current exemptions or limitations in the revised GHS, including the consumer product exemption (Document ID # 0064), guidance on byproducts (Document ID # 0064), the relative roles of manufacturers and employers (Document ID # 0064), and the article exemption (Document ID # 0160). OSHA agrees and all of these accommodations remain the same in the proposed revised rule. As indicated in the ANPR, the Agency does not intend to change those parts of the HCS that are not affected by the GHS.

One commenter indicated that the revised HCS should indicate that it does not apply fully to State prison inmates because the GHS information would give them data that could be used illegally, and perhaps lead to harm (Document ID # 0069). Generally speaking, State prison inmates are not directly subject to Federal requirements under OSHA, although such requirements may be applied to them under State laws or the provisions of another Federal agency. This comment regarding limitations needed for inmates should be addressed in those jurisdictions, but nothing in these revisions would substantially change the application of the HCS to them.

There were also a few comments regarding the scope of the revised rule in terms of provisions of the GHS that affect the environment or transportation (see, *e.g.,* Document ID #s 0072 and 0179). As OSHA indicated in the ANPR, it does not have the authority to require information in these areas since they are not directed to the protection of employees under its jurisdiction. However, OSHA does not prohibit this type of information on labels or safety data sheets, and is aware that it is often included on labels and safety data sheets currently developed to comply with the HCS. OSHA expects that chemical manufacturers will, in fact, continue to voluntarily include such data on their labels and safety data sheets to meet the requests of their domestic and international customers.

(c) Definitions. This paragraph in the HCS includes the terminology used with the corresponding definitions. Comprehension of the appropriate definitions is critical to understanding the provisions of the standard. In some cases, terms are defined somewhat differently than when used in other contexts, so familiarity with the standard's definitions is important.

In the proposed revisions, OSHA has retained as many definitions as possible from the current HCS. Changes are proposed only when there is a new term used that needs to be defined, or there is a different definition in the GHS, and consistency with the international definition is needed for harmonization purposes. As with the preceding paragraphs, minor modifications have

been proposed to ensure terminology is appropriate—primarily the use of terms related to classification and safety data sheets.

One important difference between the HCS and GHS in terminology involves the use of the term ''chemical.'' The HCS has used this term since it was originally promulgated, and defines it to include elements, chemical compounds, and mixtures of elements and/or compounds. It has been a convenient way to describe the coverage of the rule. The GHS, like some other international standards, uses the terms ''substance'' and ''mixture''. OSHA has decided to maintain a definition of ''chemical'' in the revised standard, which minimizes the number of terminology changes that have to be made to the regulatory text, as well as providing a shorthand way to define the scope to include both individual substances and mixtures of substances. This term is used in the body of the proposed regulatory text, similar to the use of it in the current HCS. However, the proposed modifications also include definitions for ''substance'' as well as ''mixture'' to align with the GHS, and both of these terms are used as well. In particular, in the appendixes that are adopting GHS language, the separate terms ''substance'' and ''mixture'' are used consistent with the GHS.

''Substance'' means chemical elements and their compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product and any impurities deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition.

A ''mixture'' is defined as a ''combination or a solution composed of two or more substances in which they do not react.'' This is consistent with the GHS definition—and while slightly different than the definition in the current HCS, means the same thing.

OSHA is also proposing to maintain the term ''hazardous chemical'' as used in the current standard (a chemical which is a physical or health hazard), except to add the term ''classified'' to indicate how it is determined that it is a physical or health hazard, and to add the coverage of unclassified hazards as those terms are defined in a new definition explained below. This term will be used throughout the standard to indicate that the classification process is completed, and the chemical manufacturer has determined that the chemical poses a hazard—either by meeting the requirements for a physical or health hazard or by virtue of being considered an unclassified hazard under this section. Most of the substantive requirements of the rule apply to hazardous chemicals.

Another proposed modification to the definitions paragraph is to move the physical hazard definitions to an appendix. In the current HCS, health hazard definitions are addressed specifically in Appendix A to the rule, but the physical hazard definitions were included in paragraph (c). In the proposed revisions, health hazard definitions will continue to be addressed in Appendix A, but a new Appendix B will address physical hazards. Both of these appendixes will be discussed below under the summary and explanation of ''Hazard Classification.''

As noted in Section III above, the physical hazard definitions in the GHS are drawn from the United Nations' Recommendations on the Transport of Dangerous Goods. Since DOT has adopted this international approach, the GHS definitions are substantially harmonized with the U.S. requirements for labeling of dangerous goods in transport. All chemicals that are shipped in the U.S. have already been classified according to DOT's physical hazard definitions. This will reduce the burdens associated with classifying physical hazards under the revised HCS. The primary differences involve exceptions that make the definitions more applicable to workplace situations (for example, coverage of flammable liquids that are currently defined as combustible under the HCS). Modifying the HCS to align with the GHS thus serves the purpose of harmonizing many of these definitions domestically, and results in shippers only having to classify their chemicals once for most physical hazards.

OSHA is proposing to add a definition for the term ''classification'' in order to ensure that the meaning of this term is clear. Consistent with the definition of classification in the GHS, the proposed definition of ''classification'' is ''to identify the relevant data regarding the hazards of a chemical; review those data to ascertain the hazards associated with the chemical, and decide whether the chemical will be classified as hazardous, and the degree of hazard where appropriate, by comparing the data with the criteria for health and physical hazards.'' This definition is very similar to the process of hazard determination that is currently in the HCS, with the exception of determining the degree of hazard where appropriate. This reflects the GHS approach of having categories for each class of hazard. Under the current HCS, there are some definitions that have categories in a hazard class (*e.g.,* acute toxicity, flammability), but other definitions are simply one category (*e.g.,* carcinogenicity). The additional breakdown in the GHS of classes into categories that reflect different severities or levels of effect will provide both employers and employees with more precise information to understand the hazards, to consider when evaluating workplace conditions to determine the risks in the workplace, and to respond to exposure incidents.

In addition to the definition of classification, OSHA has proposed a definition for ''hazard class'' and ''hazard category'' to further explain the approach of breaking down the hazardous effects into levels of severity. A ''hazard class'' is defined as ''the nature of the physical or health hazards, *e.g.,* flammable solid, carcinogen, acute oral toxicity.'' The definition of ''hazard category'' is ''the division of criteria within each hazard class, *e.g.,* oral acute toxicity and flammable liquids include four hazard categories. These categories compare hazard severity within a hazard class and should not be taken as a comparison of hazard categories generally.'' These definitions are also taken from the GHS.

OSHA is proposing to modify the term ''health hazard'' to reflect the specific hazards defined in the GHS. While the overall scope of what is covered is expected to be essentially the same as the current HCS, the hazards may be identified slightly differently. For example, the current HCS covers reproductive toxicity as a target organ effect, and includes all aspects of the effect under that hazard. The GHS has a separate definition for germ cell mutagenicity, which is considered part of reproductive toxicity in the current HCS. The definition of ''health hazard'' is thus proposed to be ''a chemical which is classified as posing one of the following hazardous effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; specific target organ toxicity (single or repeated exposure); or aspiration toxicity. The criteria for determining whether a chemical is classified as a health hazard are detailed in Appendix A, Health Hazard Criteria.''

A revised definition of ''physical hazard'' is also proposed to reflect the physical hazards covered in the GHS. While these are similar to the coverage of the HCS, they are in some cases

described somewhat differently. The definition proposed for ''physical hazard'' is ''a chemical which is classified as posing one of the following hazardous effects: explosive; flammable (gases, aerosols, liquids, or solids); oxidizer (liquid, solid or gas); self-reactive; pyrophoric (liquid or solid); self-heating; organic peroxide; corrosive to metal; gas under pressure; or water-activated flammable gas.'' In addition, the definition refers to Appendix B, Physical Hazard Criteria, for details.

The definition of ''label'' in the GHS is slightly different than what is currently in the HCS, and OSHA is proposing to modify the HCS to be consistent. Thus the proposed definition of ''label'' is ''an appropriate group of written, printed or graphic information elements concerning a hazardous chemical that is affixed to, printed on, or attached to the immediate container of a hazardous chemical, or to the outside packaging.'' The GHS label is more specific than what is required in HCS, and includes certain core information that must be presented. Thus a definition for ''label elements'' is also proposed, and it would mean ''the specified pictogram, hazard statement, signal word, and precautionary statement for each hazard class and category.'' ''Safety data sheet (SDS)'' is defined as ''written or printed material concerning a hazardous chemical which is prepared in accordance with paragraph (g) of this section.''

Definitions for terms that describe information required to be provided on labels are also proposed to be added to the HCS. These include ''hazard statement'', ''pictogram,'' ''precautionary statement,'' ''product identifier,'' and ''signal word.'' These proposed new definitions will help to clarify the specific requirements for labels under the revised HCS, and are consistent with similar definitions in the GHS.

''Hazard statement'' is ''a statement assigned to a hazard class and category that describes the nature of the hazards of a chemical, including, where appropriate, the degree of hazard.'' This is essentially what is defined as a hazard warning under the current rule. An example of a hazard statement under the GHS is: Causes serious eye damage. These statements have been codified, meaning that numbers have been assigned to them. They are available in all of the official languages of the United Nations, and thus translation will not be a problem when shipping to countries using those languages. Having standardized statements is expected to facilitate translation into other languages as well.

''Pictogram'' means a ''composition that may include a symbol plus other graphic elements, such as a border, background pattern, or color, that is intended to convey specific information about the hazards of a chemical.'' This definition covers both pictograms in the transport sector, and those in other sectors covered by the GHS. The pictograms are required as part of the core information provided on a label to describe the hazards of a chemical. The workplace pictograms will be a black symbol on a white background with a red diamond border frame. Some commenters noted that the frame should be permitted to be black for domestic shipments as allowed under the GHS (*see, e.g.,* Document ID #s 0032 and 0163). However, as described in Section V of this preamble, there are clear benefits associated with the use of the red frame in terms of recognition and comprehensibility. Thus OSHA is proposing to only allow the red frame to be used, whether the shipment is domestic or international.

Under the GHS, a symbol is generally assigned to each hazard class and category. There are nine agreed symbols under the GHS to convey the health, physical and environmental hazards. Eight of these symbols are proposed for adoption in this rulemaking, the exception being the environmental symbol. Six of these symbols have been used for many years in the international transport requirements, so some employees will already be familiar with them.

The ''precautionary statement'' is ''a phrase that describes recommended measures that should be taken to minimize or prevent adverse effects resulting from exposure to a hazardous chemical or improper storage or handling.'' The precautionary statements specified in Appendix C will be required on containers under the revised HCS. An example of a precautionary statement is ''wear protective gloves.'' The precautionary statements in the GHS are assigned to certain hazard classes and categories. Precautionary statements have not previously been required under the HCS, although many chemical manufacturers include them on their labels for safe handling and use. These statements are codified under the GHS, meaning that numbers have been assigned to them. The precautionary statements in the GHS are not harmonized like the hazard statements are, and the regulatory authority is free to use the statements in the GHS annex or to use alternative statements when adopting the current version of the GHS. Using the GHS statements has the advantage of adopting statements that have undergone expert review by the Subcommittee, are assigned to the appropriate hazard class and category, and have been translated into six languages. Work continues on them in the Subcommittee to combine or edit the precautionary statements to reduce repetition and complexity of the label. The precautionary statements may be considered harmonized in the future. Other countries are already using them (*e.g.,* in Europe). Since OSHA did not previously require the use of precautionary statements, and had no such recommended statements to provide, the Agency has decided to use those currently in the GHS as the mandatory requirements. This will make it easier for compliance since chemical manufacturers and importers will not need to develop, maintain, and translate precautionary statements on their own. It will also help employees since they will be seeing the same language on labels regardless of the supplier of the chemical. Such standardization improves comprehension, and thus the effectiveness of the information transmitted under the standard.

Container labels will also be required to include a ''product identifier.'' The proposed definition for this term is ''the name or number used for a hazardous chemical on a label and in the SDS. It provides a unique means by which the user can identify the chemical. The product identifier used shall permit cross references to be made among the required list of hazardous chemicals, the label, and the SDS.'' In other words, the product identifier is essentially the same as the ''identity'' under the current HCS. The GHS allows competent authorities for workplace requirements to choose not to require specific chemical identities of ingredients to be listed on the label, as long as they are on the SDS. This is the approach OSHA currently uses in the HCS, and it has been effective. OSHA will continue to require chemical identities only on SDSs, and has proposed a definition for ''product identifier'' that is consistent with the current definition for ''identity'' to maintain this approach.

Another new concept being proposed for HCS labels is inclusion of a ''signal word'' to bring attention to the hazardous effects, as well as to contribute to the recognition of the severity of the hazard. Signal words have been used for many years in the United States on consumer and pesticide labels. The proposed definition is ''a word used to indicate the relative level of severity of hazard and alert the reader to a potential hazard

on the label. The signal words used in this section are 'danger' and 'warning.' 'Danger' is used for the more severe hazards, while 'warning' is used for the less severe.''

OSHA is proposing to add a definition to the HCS for ''unclassified'' hazards. As has been noted, the current HCS is performance-oriented, and takes a very broad approach to defining hazards covered by the rule. The GHS is similarly broad in approach, but includes very specific definitions of criteria to apply when determining whether a chemical poses a physical or health hazard. This specification approach has significant benefits associated with it, including providing more guidance to help ensure a consistent approach to determining hazards. It also allows more information to be developed that provides an indication of the severity of effect.

In the ANPR, OSHA asked for comment on whether these criteria are sufficient to cover the hazards present in the workplace. While the Agency believes the scope of coverage is similar between the two approaches, OSHA wants to be sure that the new approach is as comprehensive as the existing standard. The primary hazard addressed by respondents to this question was combustible dust. As will be discussed later in this preamble, OSHA has proposed that the United Nations add criteria for combustible dust to the GHS, so this issue should be resolved in the future by having the necessary criteria. Another potential example is simple asphyxiation. The only specific reference to this effect in the GHS is in the part of the SDS that covers hazards that do not result in classification—suffocation is listed as an example. The definition of ''unclassified hazard'' could be used in this situation as well. Alternatively OSHA is considering proposing a definition and label elements as discussed in the issues section.

It is possible that there are other hazards that may not yet be specifically defined. The addition of the definition for unclassified hazards is intended to address these situations. Where a classifier has identified evidence of a hazard, but the evidence does not meet the currently specified criteria for hazards covered by the rule, the definition for unclassified hazards will capture those hazards to ensure that the modified HCS is appropriately protective, and covers all of the hazards covered by the current rule. During the negotiations for the GHS, U.S. industry representatives often raised the issue of ensuring that they could provide additional hazard information in order to satisfy product liability laws in the U.S. This was the rationale for allowing such information to be included on labels under supplementary information, and on SDSs under Section 2. Addition of the definition of ''unclassified hazards'', and specific recognition of the need to provide information when such effects arise, should help U.S. industry address its product liability concerns as well as protect exposed workers.

OSHA would require the chemicals posing unclassified hazards to be treated as hazardous chemicals under the rule. The Agency anticipates that this information would appear in Section 2 of the SDS (Hazard Identification)—the GHS already identifies this as the appropriate place in its guidance on the contents of SDSs (A4.3.2.3, *Other hazards which do not result in classification*), and it is included in Appendix D of this proposal as unclassified hazard. In terms of labeling, there would be no specified label elements for chemicals that pose unclassified hazards. The label for such hazards must describe the hazardous effects under supplementary information on the label, as well as provide any appropriate precautionary information. OSHA also expects that such hazards would be addressed in worker training programs.

The Agency anticipates that there will be relatively few situations where there will be scientific evidence or data indicating a hazard that is not currently classified, but wants to ensure that this information is captured and conveyed to employers and employees. It appears that it would also be appropriate to establish a feedback mechanism so in the future, classifiers can inform OSHA of these situations where the current criteria are insufficient, and the Agency can then suggest to the United Nations that appropriate criteria be developed and added to the GHS. This is consistent with the overall approach to hazard classification in the GHS that OSHA is proposing to adopt—that specific criteria be provided to help ensure that classification is appropriate, and information transmittal is consistent from company-to-company. Therefore, the use of the definition of unclassified hazard should be a temporary situation for these hazards, ensuring information is provided until such time as the criteria are added to the rule. OSHA is requesting additional input on this approach in the issues section.

OSHA is not proposing to revise the other terms currently defined in the HCS. In addition, the GHS includes a number of definitions that did not appear to be necessary for inclusion in the revised HCS and as a result have not been addressed here.

(d) Hazard classification.

Hazard determination under the current standard. Under the existing HCS, chemical manufacturers and importers are required to evaluate the scientific data available regarding the chemicals they produce or import, and determine whether they are hazardous within the meaning of the standard. This requires a thorough search of the scientific literature on both the health and physical hazards that the chemical may pose. The identified information must be evaluated within the parameters established in the standard to determine whether the chemical is considered to pose a hazard. Paragraph (d), Hazard determination, provides the regulatory approach for evaluation. This is to be implemented using the definitions provided in paragraph (c), as well as in Appendix A, which provides further elaboration on the nature and breadth of health hazards covered. Appendix B provides additional requirements for identifying and evaluating data regarding hazards. Both of these appendixes are mandatory.

In order to ensure the broadest dissemination of information, and to reduce the number of situations where conflicting determinations may be made for the same chemical by different suppliers, the HCS considers one study, conducted according to established scientific principles and producing a statistically significant result consistent with the definitions of hazard in the standard, to be sufficient for a finding of health hazard under the rule. See 29 CFR 1910.1200(d)(2) and Appendix B. This approach was the broadest among those systems that were used as the basis for the development of the GHS.

Most of the definitions under the HCS simply lead to a conclusion that the chemical involved poses that hazard or it does not. For example, a chemical might be found to be a carcinogen under the rule based on one study indicating that it poses a carcinogenic effect. The current standard does not generally address the degree of severity of the hazardous effect in most of the definitions—so a chemical is either a carcinogen, or it is not. However, while a one study determination leads to providing information about that hazardous effect on a safety data sheet, it may not lead to a hazard warning on a label. The HCS requires such warnings to be ''appropriate'', and there are situations where the data do not support warning about the hazard on the label because of other negative studies or information. See 29 CFR 1910 (f)(1)(ii).

Thus there is consideration of the weight of evidence when deciding what to include on a label. Chemical manufacturers and importers may also review the weight of evidence in preparing SDSs, and are permitted to discuss negative evidence and other constraints when reporting the information. Under the current standard, OSHA expects the hazard evaluation process to go beyond simply identifying one study, and includes a complete evaluation of all of the information available when determining what information to transmit to users of the chemical.

This hazard evaluation process is consistent with product stewardship processes that have evolved in the chemical industry. (See, *e.g.,* the Responsible Care® program implemented by chemical manufacturers.) Under such processes, chemical manufacturers develop and maintain thorough knowledge of their chemicals. This knowledge is critical to the safe handling and use of the chemicals in their own facilities, as well as in their customers' facilities. It is also critical to handling product liability concerns for their materials.

The HCS requires chemical manufacturers to remain vigilant regarding new information about their chemicals, and to add significant new information about hazards or protective measures to their hazard communication documents within three months of learning about them. See 29 CFR 1910.1200(f)(11), (g)(5). This has always been seen by OSHA as a more rigorous, but essential, requirement than some other countries' provisions, which only require these documents to be reviewed every few years. It should be noted that OSHA has not been enforcing the current requirement to change labels within three months of getting new information. This stay on enforcement began some years ago when the standard was first promulgated, and involved concerns about existing stockpiles of chemicals and other related information. OSHA is proposing to reinstate the requirement and lift the stay, making the updating period consistent with that required for safety data sheets, and invites comments on this issue.

At the time the HCS was promulgated, the standard's provisions and approach were quite novel, and there were concerns that chemical manufacturers and importers would need more guidance regarding what chemicals to consider hazardous. Thus OSHA included provisions in the hazard determination paragraph that established certain chemicals as being hazardous. Chemical manufacturers and importers still had to complete a hazard evaluation and determination of what hazards were posed, but for these designated chemicals, there was no decision to be made as to whether they were hazardous or not. These chemicals were considered to be a ''floor'' of chemicals covered by the rule, and included those for which OSHA has permissible exposure limits in 29 CFR part 1910, as well as those for which the American Conference of Governmental Industrial Hygienists (ACGIH) has recommended Threshold Limit Values (TLVs). In addition, given that carcinogenicity was the most controversial and difficult health effect to address, OSHA indicated that at a minimum, chemicals found to be carcinogenic in the National Toxicology Program's Annual Report on Carcinogens, or in monographs published by the International Agency for Research on Cancer, were to be considered to be carcinogens in addition to those regulated by OSHA as carcinogens.

The existing HCS also includes provisions regarding hazard determinations for mixtures. 29 CFR 1910.1200(d)(5). Where such mixtures have been tested to determine their hazardous effects, the data on the mixture as a whole is used. Where testing has not been done, OSHA promulgated an approach based on the percentage of a hazardous chemical in a mixture to determine if the mixture is hazardous. Therefore, if a mixture contains one percent or more of a chemical determined to present a health hazard, the mixture is assumed to have the same effect. The one exception is carcinogens—a mixture is considered to be carcinogenic if it contains 0.1% or more of a chemical found to be carcinogenic.

In all cases, a mixture will still be considered to be hazardous if there is evidence that it poses a health risk when the hazardous chemical is present in concentrations below the cut-offs. This was included to ensure that chemicals that can have effects at very low concentrations, such as sensitizers, will be adequately addressed.

For physical hazards, the evaluator must determine based on whatever objective evidence is available whether the hazardous effect is still possible in smaller concentrations. This recognizes that for physical effects, such a determination may be made based on factors such as dilution, and there are readily available means to make an appropriate assessment.

The approach in the existing HCS is considered to be a self-classification system. In other words, the chemical manufacturer or importer reviews the available information, and makes the determination as to whether the product presents a potential hazardous effect. This is different than some other systems where the regulatory authority makes the determination, and publishes a list of hazardous chemicals that must be used by the chemical manufacturer or importer.

The hazard determination is to be completed based on available information. The HCS does not require testing of chemicals to produce information where it is not available.

The hazard determination approach in the HCS recognizes that information about chemicals changes, new chemicals are introduced, others cease to be used—in other words, the world of chemicals in the workplace changes constantly, and the standard is designed to ensure that employees receive the most up-to-date information available regarding the chemicals to which they are currently being exposed.

Employers who simply use chemicals, rather than producing or importing them, are permitted to rely on the information received from their suppliers. 29 CFR 1910.1200(d)(1). This downstream flow of information recognizes that the chemical manufacturers and importers have access to information about the chemicals they sell that is not available to those who only use them. It also reduces duplication of effort by focusing the hazard determination process at the source, rather than having everyone who uses a chemical trying to complete such a process.

The HCS requires chemical manufacturers and importers to maintain a copy of the procedures they follow to make hazard determinations. 29 CFR 1910.1200(d)(6). If OSHA finds errors in a label or SDS, the chemical manufacturer or importer that prepared the document will be held responsible—not the employer using the chemical.

The hazard determination procedures in the HCS, including the definitions and Appendixes A and B, have been in place since the standard was promulgated in 1983. Therefore, the intent to design an approach that was dynamic and would remain current through changes in the workplace appears to have been accomplished.

Hazard Classification under the GHS. The challenge in negotiating an international approach was to create a system that did not require frequent changes yet remained current and protective, incorporating the best parts of the approaches in the existing systems. The GHS embodies an

approach that is very similar to the existing HCS in scope and concept, but builds in additional details and parameters to help to ensure consistency worldwide. Like the HCS, the GHS approach is based on a downstream flow of information from suppliers to users; self-classification; use of available information with no new testing; and a broad approach to definitions of hazard. The GHS has further refined the approach to include addressing the degree of severity of the hazardous effects by assigning categories of hazard within hazard classes; providing detailed scientific approaches to evaluating the available data to help ensure that multiple evaluators produce similar results when classifying hazards; and allowing a broader use of available data by establishing principles where data can be extrapolated in situations regarding mixtures. OSHA believes that these additional provisions in the GHS enhance employee protection in addition to the benefits of having an internationally harmonized approach when preparing labels and SDSs.

To accommodate these refinements, and improve protection for employees exposed to chemicals in the U.S., OSHA is proposing to modify the HCS as follows. First, paragraph (d) would be re-named ''hazard classification'' rather than the current ''hazard determination.'' This is to be consistent with the approach and terminology used in the GHS. Similarly, paragraph (d)(1) would be modified to indicate that chemical manufacturers and importers would be required to:

* * * [c]lassify their health and physical hazards in accordance with this section. For each chemical, the chemical manufacturer or importer shall determine which hazard classes, and the category of each class, that apply to the chemical being classified.

Paragraph (d)(1) would continue to allow employers to rely on information received from suppliers.

Paragraph (d)(2) would be similarly modified to use terminology regarding classification. However, the paragraph also includes modifications to address the evaluation process, and the role of testing. The paragraph specifically states that evaluation of the hazards of chemicals requires the evaluator to ''identify and consider the full range of available scientific literature and other evidence concerning the potential hazards.'' This is consistent with the current HCS, but re-emphasizes the responsibility to fully characterize the hazard of the chemicals. To clarify that available evidence is to be used, new paragraph (d)(2) specifically states that there is no requirement to test a chemical to classify its hazards under the modified provisions—just as there is no such requirement under the current HCS.

Proposed paragraph (d)(2) also refers to Appendixes A and B for further information on classification as in the current standard. However, the proposed Appendixes have been completely changed from the current text. New Appendix A would include the criteria for classification of health hazards, and new Appendix B would include the criteria for classification of physical hazards. These mandatory appendixes would have to be used for the hazard classification process under the proposed revised standard.

Reference to these appendixes is also included in new paragraph (d)(3), which addresses mixtures. This proposed paragraph re-emphasizes that chemical manufacturers and importers must follow the procedures in Appendixes A and B to classify hazards for mixtures as well as for individual chemicals. In addition, this proposed paragraph indicates that chemical manufacturers or importers would maintain the overall responsibility for the accuracy of their hazard classifications for mixtures even if they rely on ingredient information received from a supplier.

During implementation of the current HCS, OSHA allowed formulators of chemicals to develop an SDS by simply providing the SDSs for all the ingredients rather than compiling a specific SDS for the product. OSHA does not believe that this practice is widely pursued, but it would not be permitted under the proposal. The revisions to the approach to classifying mixtures would not lend itself to such a practice. Hazard classification requires consideration and application of bridging principles based on the constituents, as well as the application of a formula when there are multiple ingredients with acute toxicity. These approaches require the evaluator to determine a classification for the mixture as a whole. In addition, this practice places more of a burden on the user of the product to sort out the relevant information for protection of their employees. The formulator is in a better position to assess the information and provide what is needed to their customers.

Under the current HCS, paragraph (d)(6) requires chemical manufacturers, importers, or employers performing hazard determinations to keep a copy of the procedures they follow in the hazard determination process. This provision has been deleted in the proposed revisions because the hazard classification procedures have been specified, and thus all evaluators are following the same process.

Proposed paragraph (d) is thus much shorter and less detailed than paragraph (d) in the existing standard. This is largely due to the approach in the GHS to include the details regarding classification in hazard-specific discussions that address both the individual chemical and that chemical in mixtures. Given the volume of these criteria, it appeared to OSHA that presenting the relevant information in mandatory appendixes was a more efficient way to describe the criteria than including it all in the primary text of the standard. This is particularly true for those many employers reading the standard who do not have to perform hazard classification—the proposed revisions only apply to chemical manufacturers and importers, unless an employer chooses not to rely on information received from them.

Appendix A, Health Hazards. Proposed Appendix A begins with an introduction that includes material related to principles of classification taken from Chapter 1 of the GHS. These address both weight of the evidence, and the approach to mixtures. The remainder of Appendix A is taken from Chapter 3 of the GHS on Health Hazards. OSHA has included the specific discussions of all of the health hazards covered by the HCS in proposed Appendix A, extracted from Chapter 3 of the GHS. Generally speaking, OSHA has proposed the language from Chapter 3 regarding the criteria for classification to minimize deviations from the GHS approach. However, each of the hazard discussions has been reviewed carefully within the context of the HCS, and there has been some editing by OSHA. This has been primarily to shorten the discussions where possible to delete any portions that do not relate specifically to the method of classification for either individual substances or mixtures. Thus OSHA has removed the decision logics that are in the GHS from the proposed criteria, and is considering including them in a guidance document to be made available at the time a final rule is published. The hazard communication portions of the criteria chapters have also been removed since all of this information is already available in proposed Appendix C and is thus duplicative. In addition, as discussed further below, edits have been made where OSHA has not proposed to adopt all of the categories of a particular hazard class.

The chapters on Skin Corrosion/Irritation and Serious Eye Damage/Irritation have been modified more

extensively than the other chapters on health hazards in the GHS. In these chapters, the GHS leads the evaluator to conduct additional testing on the chemical when information is not available. While the GHS does not require such testing, the criteria for these effects imply that it should be conducted to complete an evaluation. The HCS is based solely on available information, and no testing is ever required. Therefore, OSHA has modified these chapters to eliminate any references to additional testing, and limit the evaluation to what is known based on available information. It should be noted that the UNSCEGHS has initiated work to review these chapters to edit them and make them easier to follow. OSHA will be participating in this activity.

Each proposed hazard class discussion includes the criteria for classifying a substance or a mixture. Unlike the HCS, which defines across-the-board percentage cut-offs for all hazard classes, the GHS employs a tiered approach to classification. Like the HCS, classification would be based on test data for a mixture as a whole for most hazard classes where it is available. However, where it is not available, but there are data on ingredients and similar mixtures, the GHS allows extrapolation or bridging of data to classify a mixture. This allows greater use of available data before resorting to a percentage cut-off or similar approach. Where such data are not available, the criteria address how to classify mixtures based on cut-offs specific to that hazard. In the case of acute toxicity, this includes calculations based on the acute toxicity of each ingredient in the mixture.

The tiered scheme is somewhat different for certain hazard classes. As described, usually the evaluation is based first on test data available on the complete mixture, followed by the applicable bridging principles, and lastly, cut-off values/concentration or additivity. The criteria for Germ Cell Mutagenicity, Carcinogenicity, and Reproductive Toxicity take a different approach by considering the cut-off levels as the primary tier and allowing the classification to be modified on a case-by-case basis based on available test data for the mixture as a whole. This is related to the sensitivity of available test methods to detect these types of effects at small concentrations in the mixture as a whole.

This may result in some mixtures that are currently considered to pose a particular hazard not being so classified under the GHS. OSHA believes that the protections of the GHS approach are appropriate, and that these changes will not result in an inappropriate reduction in protection. For example, if there is a mixture that is 1% of an acutely toxic material, regardless of the severity of that effect, and it is diluted with 99% water, the current HCS would require that mixture to be considered acutely toxic. Under the GHS, it is unlikely to be considered as such—based on the dilution effect of the water, the acute toxicity is no longer a concern. Thus the bridging principles under the GHS allow for a more accurate assessment of the potential harm of the mixture, whereas the strict cut-off approach under the current HCS may provide hazard information in cases where the exposure is minimal and the occurrence of an adverse effect is unlikely. In the example described, the presence of the water in the mixture as used by the workers reduces the potential for exposure to the hazardous ingredient to such a small amount that no effect is expected to result. The GHS approach is not as simple to apply as the current HCS, but the resulting approximation of the hazards of the mixture will be more accurate.

There are several hazard classes in the GHS that give competent authorities such as OSHA a choice of concentration limits to apply when classifying a mixture containing ingredients that pose these effects (*e.g.,* reproductive toxicity, sensitization, target organ effects). OSHA is proposing to use the most protective of the available concentration limits for these hazard classes, and require information to be provided on labels and safety data sheets at concentrations above 0.1%. Other countries may choose to only provide the information on SDSs when the concentration is higher. These particular health effects are among the most significant to employees, and OSHA believes the provision of information on labels will help both employers and employees ensure that appropriate protective measures are followed.

In determining which categories to propose to adopt, OSHA employed two primary principles in reviewing them. First, the Agency tried to maintain a scope as consistent as possible with the current scope of the HCS, in particular to maintain the level of protection in keeping with that principle established to guide the harmonization process (*see* Section III)(an approach specifically supported by Document ID #s 0021, 0163, and 0170). Second, consistent with comments received and discussed previously in this preamble (*e.g.,* Document ID #s 0104, 0128, 0155, and 0171), OSHA reviewed what major trading partners of the U.S. have indicated they are proposing to adopt—in particular, the EU since they have already adopted an approach. Where possible, and appropriate in terms of maintaining protections and an appropriate scope for the workplace, OSHA has sought to be consistent with these other proposed approaches for the workplace.

All of the health hazard classes in the GHS have been proposed to be adopted in the HCS. However, for acute toxicity, OSHA is proposing to adopt Categories 1 through 4, but not 5. (See Appendix A.1 for a detailed explanation of acute toxicity categories and their corresponding cut-offs.) The current coverage of the HCS is greater than Category 3 of the GHS, but does not include all of Category 4. If OSHA were to adopt only 3 categories, it would reduce protections with regard to acute toxicity. Adopting Category 4 expands coverage somewhat. However, chemicals meeting the definition of Category 4 are already covered under the national consensus standard on labeling that many chemical manufacturers already follow (ANSI Z129). In addition, those chemicals are already covered by the EU under their existing classification, packaging, and labeling of dangerous substances (Directive 67/548/EEC) and preparations (Directive *1999/45/EC*) directives, and their adopted GHS provisions. These countries comprise the largest trading partner in chemicals for the U.S. Thus, many manufacturers are already classifying their chemicals as acutely toxic to comply with European requirements.

Coverage of Category 5 would not only expand coverage significantly, it would lead to inconsistency with Europe and with the current national consensus standard. OSHA also believes that exposures of this magnitude are not likely to be encountered in the occupational setting, and that such coverage would be excessive.

Since OSHA raised this issue for comment, a number of respondents specifically addressed acute toxicity. The responses varied, although a number supported the approach proposed to cover through Category 4 (Document ID #s 0046, 0047, 0077, 0104, 0021, 0123, 0135, 0145, 0155, 0163, and 0171). For example, Dow (Document ID # 0047) stated:

> Dow believes that OSHA should adopt all health hazard criteria and categories, except Acute Toxicity Category 5. While this category may be useful for characterizing consumer products, its use with the substances characterized under the HCS would be confusing and unnecessary. Dow understands that the EU and Australia have

both chosen not to include Acute Toxicity Category 5 in their implementation of the GHS and that Canada is currently considering doing the same. Dow believes that the U.S. should be consistent with these other major trading partners by not including this category when it adopts the GHS.

Others suggested that OSHA propose to adopt Categories 1 through 3 (Document ID #s 0054, 0034, 0128, and 0141). Some argued that all categories should be adopted to ensure harmonization (*see, e.g.,* Document ID #s 0050, 0078, 0106, 0018, 0036, and 0116).

As indicated, OSHA believes that coverage of Categories 1 through 4 is appropriately protective for the workplace, and leads to the greatest harmonization with workplace authorities in other countries. With regard to coverage of Category 5, OSHA would not preclude inclusion of information on Category 5 on the label or the SDS when implementing the proposed revisions. Thus chemical manufacturers or importers who wish to have one label that suffices for the workplace and the consumer sector, for example, could do that and still be in compliance with the HCS.

While OSHA has chosen not to adopt Category 5 for the reasons described, and it does not appear in the Table A.1.1, Paragraph A.1.3.6.1(a) requires that the calculation of acute toxicity for mixtures ''[i]nclude ingredients with a known acute toxicity, which fall into any of the GHS acute toxicity categories.'' The intent of this provision in the GHS was to include data on substances classified as Category 5 in the mixture calculation. The exclusion of Category 5 from the text of the acute toxicity table will likely mean that classifiers could overlook substances falling into this category in the mixtures calculation, resulting in a higher (less protective) classification. This could also mean a lack of harmonization within the U.S. if other Federal agencies adopt Category 5, potentially requiring inclusion of these data in the calculation. The European Union GHS system excluded Category 5 for all sectors, and has explicitly excluded Category 5 data from the mixture calculation. OSHA invites comment on whether Category 5 data should be included in the calculation of the acute toxicity of mixtures, and whether exclusion of these data presents a significant difference in hazard classification.

OSHA is also not proposing to adopt Category 3 for skin corrosion/irritation. This particular category appears to cover much more than the current criteria for this hazardous effect under the HCS. In addition, the irritant effects covered by Category 3 are very minor and transient, and of limited applicability in the workplace setting. The Agency received several comments supporting such an approach (Document ID #s 0077, 0034, 0128, 0145, and 0171). This approach is also consistent with the European Union.

OSHA has also not proposed to adopt Category 2 for aspiration hazards covered by the GHS. This category appears to be more appropriate for the consumer sector than the workplace. OSHA does not specifically address aspiration hazards in the current HCS although the Agency believes the more relevant and serious Category 1 aspiration hazards are captured under the broad scope of the rule. Several commenters suggested that Category 2 not be covered when aligning the HCS with the GHS (Document ID #s 0077, 0034, 0128, 0145, and 0171), and the EU does not include it in their requirements. Others suggested that aspiration should not be covered at all since it is not relevant to the occupational setting (Document ID #s 0102, 0104, and 0163). However, OSHA believes that accidental aspiration is possible in the occupational setting, and thus has proposed to adopt the criteria for Category 1.

Appendix B, Physical Hazards. Appendix B includes the criteria for the physical hazards proposed to be covered by the HCS to be consistent with the GHS. The current HCS covers these hazards, but the definitions, while similar, are not the same as those included in the GHS. The GHS based its physical hazard criteria on those incorporated into the United Nations' Recommendations on the Transport of Dangerous Goods. In the U.S., the Department of Transportation (DOT) has already harmonized its definitions with the UN, and thus, with few exceptions, the GHS. While OSHA's initial physical hazard definitions were consistent with the DOT definitions at the time the HCS was promulgated, DOT's harmonization with the international requirements resulted in the two agencies having different definitions. Thus the U.S. has not been domestically harmonized for some years—adopting the same definitions as DOT has in this rulemaking will thus have the additional benefit of accomplishing substantial domestic harmonization.

As with Appendix A and the health hazard criteria, OSHA has edited Chapter 2 of the GHS to shorten the discussions and focus only on the criteria in the proposed revisions. Decision logics and hazard communication information are not included. OSHA is considering a guidance document with the decision logics to be made available when a final rule is completed, and the hazard communication information is already in proposed Appendix C, so to include it in Appendix A would be duplicative.

As with health hazards, OSHA is trying to maintain the current scope of the HCS for physical hazards in the proposal, as well as being as consistent as possible with trading partners, particularly the European Union. One exception may be flammable gases, where it appears that more flammable gases will be covered by OSHA adopting Category 2 than are currently covered by the HCS. OSHA is proposing to adopt all of the physical hazards in the GHS.

The one deviation from the approach adopted by the European Union is in the proposed adoption of Categories 1 through 4 for flammable liquids. The European system only addresses Categories 1 through 3. Given the current coverage of the HCS, not covering Category 4 would be a reduction of protection that OSHA does not believe is appropriate. Thus we are proposing to include coverage of Category 4 in the HCS.

One edit that should be noted occurs in the criteria for explosives. The GHS criteria currently use the term ''article'' in a manner that is inconsistent with that term as used in the workplace in the U.S. OSHA has changed the term to ''item'' in these criteria.

While OSHA believes that harmonizing with DOT provides significant benefits, there are some concerns regarding this approach that have arisen in reviewing the physical hazard criteria. These concerns involve the test methods referred to in the GHS criteria, which are based on issues related to the packaging and volume in transportation. Packaging is obviously a major concern in transport, and is used to address or mitigate the risk of conveying certain types of chemicals. These chemicals may or may not be present in the workplace in the same size or type of packaging and the relevance of these factors in the test methods are questionable in terms of workplace exposures. OSHA invites comment on this issue, both in terms of the appropriateness of the criteria as drawn (including the test methods and references to packaging or volume), and any suggestions that interested parties have to address these issues. The criteria of particular interest involve those for self-reactive chemicals, organic peroxides, self-heating chemicals, and explosives.

OSHA raised as an issue for comment in the ANPR the impact of changing

some of the physical hazard criteria in other OSHA standards that rely on HCS definitions (for example, process safety management). Many comments were received on this issue (*see, e.g.,* Document ID #s 0042, 0076, 0077, 0015, 0024, 0108, 0128, 0145, and 0163). While opinions varied, generally the consensus was that OSHA needed to make the standards consistent.

OSHA has reviewed all of its other standards, and the possible impact of aligning the HCS with the GHS on those rules. The Agency is proposing changes to some of these other rules, and discusses elsewhere in this preamble the actions it has determined are appropriate to address this issue.

Combustible dust. In the ANPR, OSHA asked for comments on the scope of health and physical hazards covered by the HCS and the GHS. In response, several commenters addressed the issue of combustible dust. There is no specific definition of combustible dust in the HCS, nor is there one in the GHS. A number of explosions have occurred in workplaces due to an accumulation of combustible dust. The U.S. Chemical Safety and Hazard Investigation Board (CSB) has investigated these explosions, and made recommendations to OSHA regarding a number of actions it should undertake (Document ID # 0110). CSB found that hazard communication regarding such dusts was inadequate, and is recommending the following with regard to this rulemaking:

> The CSB therefore recommends that OSHA amend the HCS to explicitly address the fire and explosion hazards of combustible dusts, and those materials that could reasonably be expected to produce combustible dusts, among the substances covered by the standard, and also that the Agency require inclusion of dust fires and explosions among the physical hazards that must be addressed in Material Safety Data Sheets. The CSB also requests that OSHA advocate similar changes to the GHS through appropriate international mechanisms.

The Phylmar Group (Document ID # 0080) noted that combustible dust is not specifically covered under the current HCS, but suggested that it should be a future revision to the GHS rather than an addition to the HCS at this point:

> Combustible dusts are not addressed in the current HCS or the GHS. Although we believe that combustible dusts should be addressed in future revisions of the GHS, we do not recommend that OSHA include them in this rulemaking, as it would not achieve the desired goal of global harmonization. We encourage OSHA to work with the UN to ensure that the hazards of combustible dusts are addressed in the future.

The American Petroleum Institute also suggested that OSHA discuss with the UN how to handle the classification of explosive organic dusts (Document ID # 0171). Both Dr. Michele Sullivan and Organization Resources Counselors had similar comments which highlighted the hazards of combustible dusts, but suggested that OSHA explore ways this can be addressed on SDSs or in future GHS revisions rather than suggesting modification of the current HCS (Document ID #s 0145 and 0123).

There are a number of activities ongoing in OSHA regarding combustible dust, including consideration of additional standards or regulations addressing this issue. Final decisions have not been made regarding such rulemaking. As noted by commenters, the HCS does not include an explicit definition of such dust. However, manufacturers and importers are required to perform a hazard evaluation and consider all scientific evidence to determine if their products present a hazard. 29 CFR 1910.1200(d)(1) The hazard determination must anticipate the full range of downstream uses of a product including any by-products that may be generated during normal conditions of use. It has been the longstanding position of the Agency that the hazard determination covers dusts known to be subject to deflagration and subsequent explosion, *i.e.,* combustible dusts. This information must be conveyed on the MSDS.

Likewise, the GHS specifically addresses inclusion of information on the hazards associated with explosive (combustible) dusts in the SDS. This information would appear in Hazard Identification (Section 2) on the SDS as a hazard that does not result in classification under the current provisions of the GHS. This provision in the GHS is consistent with OSHA's current coverage of combustible dusts and is included in the proposed modifications. In addition, as discussed above, OSHA has added a definition for unclassified hazards to the proposed rule to address hazards such as combustible dust that do not have specific criteria for classification in the current provisions. Under this definition, combustible dust would be covered as other hazardous chemicals are, including information on labels, SDSs, and in training.

Additionally, the United States has submitted a working paper to propose that the UN Subcommittee add combustible dusts to their program of work, and has volunteered to lead this work. At such time as specific classification criteria for combustible dusts are added to the GHS, OSHA would also add them to the modified HCS. At this point, there are no agreed U.S. criteria to propose to the UN Subcommittee. OSHA invites comments on this issue, and specifically would like to learn what stakeholders believe would be an appropriate definition for combustible dust to add to the GHS as a physical hazard.

Other comments related to hazard determination/classification. A number of commenters responded to OSHA's specific questions related to hazard determination and classification, but few commented generally on the approach in the GHS and the HCS. The Refractory Ceramic Fibers Coalition provided a general discussion on hazard determination, and reached the same conclusion as OSHA regarding the contrast in the approaches (Document ID # 0030):

> The GHS and HCS hazard determination/classification are self-classification processes, but the GHS process is more detailed and allows for closer scrutiny of the strengths and weaknesses of the available data. RCFC supports the GHS approach. While the HCS has a one positive study threshold, the GHS provides for the one positive study issue in the context of analysis of the weight of all of the available evidence. In vitro studies are treated specifically, and there is consideration of whether a substance is not bioavailable or is inextricably bound. Professional/expert judgment is included, human experience is taken into account, and negative findings and data which refute findings are considered.

As described above, the existing HCS includes reference to several lists of chemicals in the hazard determination provisions that the Agency considers a ''floor'' of chemicals that are to be considered hazardous under all circumstances. The lists were also referred to in the mixture provisions—requiring mixtures to be covered when components could exceed established or recommended exposure limits even when present in concentrations below the mixture cut-offs. Inclusion of the floor and the mixture provisions in the revised rule were raised as an issue for comment in the ANPR, and a number of responses were received. Opinions on these issues varied significantly.

A number of commenters thought the revised rule should take the same approach as the existing rule (*see, e.g.,* Document ID #s 0044, 0057, 0078, 0021, 0029, 0116, and 0149). On the other hand, some respondents did not support the inclusion of any additional lists, and several noted that the GHS does not include such an approach, and thus the revised rule should not either since it is being aligned with the GHS (*see, e.g.,* Document ID #s 0046, 0047, 0049, 0058, 0064, 0036, 0107, 0123, and 0171). Others objected to the process by which TLVs are determined and/or suggested

that it is not legal for OSHA to refer to TLVs (Document ID #s 0064, 0083, 0100, 0101, 0111, 0132, and 0141).

As OSHA noted in the ANPR, the more detailed hazard classification provisions in the GHS preclude the need for a floor and for the mixture provisions related to exposure limits. The current HCS does not provide a specific and detailed approach to hazard determination or classification of hazards, and thus there was concern during its promulgation about the relative ability of chemical manufacturers and importers to follow a performance-oriented approach and reach the same conclusions. The floor of chemicals, as well as the mixture provisions, reflected this concern by providing additional guidance regarding the types of chemicals that would be considered hazardous were an appropriate hazard determination conducted. The proposed modifications provide a specific and detailed approach, and thus this additional guidance is no longer necessary or appropriate. OSHA believes that the detailed and specific criteria would provide equal or improved protection for exposed employees since they would improve consistency in evaluations, as well as help to ensure a thorough and comprehensive classification. In addition, as noted by some commenters, the GHS itself does not include such lists, so including them in the revised HCS would be a deviation from the harmonized approach. Such a deviation would detract from the benefits of adopting a harmonized approach.

OSHA has thus decided to delete references to any lists in the hazard classification provisions being proposed. The Agency believes that the proposed revised criteria accomplish a similar purpose in ensuring a consistency in approach to classification by various manufacturers of the same product, and does not think these provisions are needed in the proposed standard for this purpose. Furthermore, the GHS does not include a floor list of this type, and maintaining such provisions in the proposed revisions would be a significant deviation from the harmonized approach.

A few commenters argued that the hazard classification approach in the GHS would result in chemical manufacturers testing or re-testing their products (Document ID #s 0061, 0178, 0022, and 0141). If manufacturers choose to test or re-test their products, it will not be a result of either the provisions of the GHS or those proposed for the revised HCS. The GHS does not require testing, and neither does the HCS. Both are based on available data. This has always been the case for the HCS, and is now explicitly addressed in the revised text to ensure it is understood by all stakeholders.

There were some other comments that noted concerns about the effects of the classification criteria on a specific chemical or product, or which noted the potential for a change in classification or the need for additional guidance or interpretation. Since OSHA had not actually proposed language or coverage for the rule in the ANPR, some of these concerns were based on assumptions about what requirements would be included in a revised HCS and thus should be re-considered in the context of this proposal. As noted in the discussion on outreach and compliance assistance, OSHA is open to suggestions regarding areas where help will be needed, and classification has already been highlighted as an area of concern.

One interesting comment that was submitted by a number of respondents involved development of a classification data base (Document ID #s 0047, 0050, 0053, 0054, 0038, 0155, 0160, and 0165). Opinions as to who would develop and maintain such a data base varied (OSHA, U.S. industry, and an international body were all mentioned). During the development of the GHS, chemical industry representatives did not generally support inclusion of such a list or data base of classified chemicals. It appears that the European Union will be making such a data base available for compliance with its requirements, as have Japan, Taiwan, Korea, and New Zealand. Concerns are now being raised by stakeholders that classifications in these data bases are different for the same chemical.

Development and maintenance of such a data base would be a significant undertaking for any entity, although the appeal of such an approach is obvious. The appearance of differing classifications in national data bases is certainly a concern. One development that impacts this issue is that the International Chemical Safety Cards distributed by the International Program on Chemical Safety are being updated to be consistent with the GHS, and will thus have classifications for over one thousand commodity chemicals. Several hundred have already been completed. NIOSH represents the U.S. in this activity (Document ID # 0082), and the cards are available on their Web site (which is linked on OSHA's Web site). These cards are available in multiple languages, and are internationally developed and peer reviewed. Thus they will provide a data base on an international level for a core group of widely available chemicals when the update is completed.

The issue of a data base is one which needs to be explored more fully, and the logistics and implications studied. It has been raised as an issue for consideration by the UN Subcommittee as well. OSHA invites further comment on how such an approach might be further developed.

(e) Written hazard communication program. The GHS does not include provisions for a written hazard communication program. Thus the provisions of this paragraph are not directly affected by implementation of the GHS. The only changes proposed align terminology, *i.e.,* the proposal uses the term ''safety data sheet'' rather than ''material safety data sheet.''

The written hazard communication program requirements are intended to ensure that the approach to hazard communication in a given workplace is coordinated and comprehensive. The program includes a list of the hazardous chemicals known to be present in the workplace. This list is basically an inventory of the chemicals the employer must have safety data sheets for—and is accessible to employees so they, too, can determine what chemicals should be included under the hazard communication programs in their workplace. The list can be maintained by work area or for the workplace as a whole, and can be kept by the ''identity'' of the chemicals (which would be the product identifier under the proposed rule). In other words, the inventory can be common names or product names, rather than individual chemical ingredients of each product by specific chemical identity or chemical name.

In addition to the list, the HCS requires the employer's program to set forth how hazard communication will be implemented in the workplace. This includes how the standard's requirements for labels, SDSs, and training will be met; how the hazards of non-routine tasks will be addressed; and how hazard communication will be handled in a multi-employer workplace situation. OSHA has provided guidance over the years on completing a written program, and there are many sample programs in circulation. The program need not be lengthy or complicated, but should have enough detail to provide the reader with a blueprint of the workplace-specific program.

Several comments were received from the Small Business Administration (SBA) and others that suggested there would be significant burdens associated with revising the written program as a result of implementing the GHS (*see, e.g.,* Document ID #s 0022, 0027, 0111,

and 0164). Revising the chemical inventory was cited by these commenters as one aspect that was likely to be burdensome. Since the chemical inventory is basically a list of the products an employer has in the workplace that are considered hazardous, the only way this list would change as a result of implementing the GHS would be if something that was not hazardous before is now, or vice versa. OSHA believes that this is not a significant concern for three reasons. First, it would be unusual for a chemical to only have one hazardous effect associated with it so that the overall determination of hazard would be affected by a change in classification in one hazard class. Secondly, because HCS currently covers hazardous chemicals, unless the chemical is new, it is highly probable that it is already covered. Third, as discussed above in relation to the scope paragraph, OSHA does not believe that the scope of hazards covered by the GHS, and thus the proposal, is substantially different than the current HCS.

The most likely differences resulting from re-classification under the revised standard is that a chemical would be placed in a category under a hazard class that does not currently include categories. It may also be possible that a chemical may fall into a different category where there are already defined categories (such as flammability). Neither of these differences would necessitate a change in the inventory.

With regard to other changes in the program, it does not appear likely there would be many, if any at all. Written programs usually describe aspects such as who in the organization is responsible for implementing different parts of the program, or the type of in-plant labeling system used. The revised HCS need not affect these aspects at all. Therefore, OSHA does not believe that extensive revisions would have to be made to written programs, including the inventory, under the proposal.

Suggestions have been made by SBA and others for outreach products related to the written program, particularly for an online inventory tool (Document ID #s 0022 and 0027). Given that the inventory is a simple list, it does not appear that anything other than a word processing program would be required to generate this part of the program so OSHA is not certain what is being suggested by these stakeholders. OSHA does not believe that a tool that lists all hazardous chemicals, and allows employers to check off those they have in their workplace, would be feasible given the extensive number of products currently in use in American workplaces. Therefore, if this is what is being suggested, it is not likely to be provided.

OSHA is thus not proposing any substantive modifications to the written hazard communication program, and does not anticipate any significant new burdens associated with revising the program as a result of other modifications being proposed.

(f) Labels and other forms of warning. The HCS is designed to provide information through three different media: labels or other forms of immediate warning; safety data sheets; and training. Labels are attached to the container of chemicals, and thus provide the information that employees have the most ready access to in the workplace. Given that they are attached to containers, they are by necessity somewhat limited in the amount of information they can present. The labels thus provide a snapshot or brief summary of the more detailed information provided to employees in training programs, or available to them on safety data sheets. They are not intended to be a complete or detailed source of information on the chemical.

In the current HCS, the requirements for labels are performance-oriented. At the time the standard was promulgated, there were many different types of labels in use. A common label format used by industry was that provided by the ANSI Z129, Hazardous Industrial Chemicals—Precautionary Labeling standard. Employers following this format at the time provided a number of different types of information on the chemicals involved. However, there were two areas where employers were inconsistent or did not necessarily provide what was needed when following the national consensus standard. The first was provision of an identity on the label that could lead a chemical user to the specific chemical identities for the hazardous ingredients. It was common practice to provide a trade name for a product, but not the names of ingredients, on either the label or the safety data sheet. The second was provision of specific information on the hazards involved, such as the target organ affected.

The current HCS label provisions focus on this typically missing information. On shipped containers, chemical manufacturers or importers are required to include an identity, and appropriate hazard warnings, as well as their name and address or that of a responsible party. The term ''identity'' is defined in the HCS definitions paragraph (c) as ''any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the MSDS.'' The hazard warning is to provide specific information about the health or physical hazards posed by the chemical. The term is defined as ''any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the specific physical and health hazard(s), including target organ effects, of the chemical(s) in the container(s). (See the definitions for 'physical hazard' and 'health hazard' to determine the hazards which must be covered.)''

Similarly, the requirements for in-plant containers specify an identity and appropriate hazard warning. OSHA has taken a flexible approach to in-plant labeling, allowing a wide variety of systems to be used as long as all of the required information is readily available to employees when they are in their work areas. Thus employers were able to continue using existing systems such as the Hazardous Materials Information System (HMIS) and the National Fire Protection Association (NFPA) labeling systems that use numerical rankings of hazard.

The labeling provisions of the current HCS exemplify the overall performance orientation of the rule. They establish the basic information requirements for chemical manufacturers and importers, but do not specify a format, or any particular label elements to be used. As a result, labels are often quite different when the same chemical is addressed by different suppliers, creating the potential for employee confusion. While many manufacturers follow the ANSI national consensus standard, others do not. Large manufacturers have frequently developed their own libraries or repositories of standard phrases, with decision logics for when to apply them to convey a hazard or a precaution. Therefore, not only does this approach lead to labels that are different, it also results in a large duplication of effort by chemical manufacturers developing their own systems.

This performance-oriented approach also did not lend itself to harmonization. Other countries often use more specific approaches, including assignment of standard phrases to certain hazardous effects, symbols, and other label elements. It was clear that the performance orientation of HCS, with its many acceptable varieties of labels, could not be standardized through agreement on content to achieve harmonization.

Given that a more specified approach would also lead to consistency among

manufacturers, as well as helping to ensure the same message is received by all exposed employees, OSHA agreed to negotiate a harmonized approach that was more specific than the current standard. This was also agreed to by stakeholder representatives involved in the negotiations. Thus once a chemical is classified as to its hazard classes and corresponding categories, the GHS specifies exactly what information is to appear on a label for that chemical. As described in Part V of this preamble, OSHA believes that these specific labeling requirements will be more protective of employee health and safety than the current performance-oriented standard.

Paragraph (f) thus has more proposed modifications than most of the other paragraphs of the existing standard. The title of paragraph (f)(1) has been changed to indicate it addresses labels on shipped containers. The required information on these labels includes: product identifier, signal word, hazard statement(s), pictogram(s), precautionary statement(s), and the name, address and telephone number of the chemical manufacturer, importer, or other responsible party.

The proposal thus would require that labels on shipped containers contain much more information than under the current standard. However, much of this additional information has already been included by manufacturers, particularly when following the ANSI standard for precautionary labeling. In addition, the OSHA requirements are intended to be the minimum information to be provided by manufacturers and importers. Under the GHS, as well as the current HCS and the proposal, chemical manufacturers and importers are free to provide additional information regarding the hazardous chemical and precautions for safe handling and use. The GHS and the proposal refer to this as supplemental information. Several commenters requested that this be permitted (Document ID #s 0132 and 0145).

Paragraph (f)(2) addresses labeling for unclassified hazards. As noted previously, the proposal ensures that unclassified hazards (such as combustible dusts and simple asphyxiants) will continue to be covered under the HCS. That means that hazard information will have to appear on the SDS, and in certain cases, the label. As there are, however, no harmonized labeling elements available for unclassified hazards, the agency requires the responsible party to determine what information will be included on the label. This evaluation is to be based on the product's hazards and exposures under normal conditions of use and foreseeable emergencies. Hazard information will be included on the label, as appropriate, under supplemental information, as well as appropriate precautionary measures for the safe handling and use of the chemical.

Paragraph (f)(3) elaborates the label requirements by stating that the required information will be taken from new Appendix C of the standard on Allocation of Label Elements, which incorporates the GHS labeling requirements. This Appendix specifies the signal word, hazard statement, pictogram, and precautionary statements for each hazard class and category. It also includes a few basic rules about preparing labels that address precedence of hazards and other topics. Thus once a hazard classification is completed, the chemical manufacturer or importer can refer to Appendix C to determine what information must be included on the label.

In addition to requiring that the information be taken from Appendix C, new paragraph (f)(4) also notes that the harmonized information must be located together on the label, tag, or mark, prominently displayed, and in English, although other languages may also be included if appropriate.

The rest of paragraph (f) in the current standard remains largely the same in the proposed modified text, although conforming changes to terminology are made throughout the paragraph. The current standard's accommodation for labels associated with solid metal is maintained in the revised text, as is the provision regarding conflicts with requirements of the U.S. Department of Transportation. In fact, since transport rules have been harmonized with the other sectors under the GHS, the possibility of a conflict in information is less likely when the HCS is consistent with the international approach. Two commenters specifically noted that OSHA should avoid conflict with DOT (Document ID #s 0064 and 0066). This is already addressed in the standard (currently paragraph (f)(3) and contained in proposed paragraph (f)(6)). They further noted that the exterior package should be for displaying DOT labels, rather than for OSHA labels. In general, this would be true, although there are some cases where the only container serves as both the shipping container and the workplace container, such as drums. In these situations, there are rules in the GHS regarding which pictograms take precedence and the ways in which to display the information. These rules are in Appendix C of this proposed rule.

Under new paragraph (f)(7), OSHA addresses workplace labeling in the proposed text. As noted previously, the current standard provides employers with flexibility regarding the type of system to be used in their workplaces. Some comments suggested that OSHA maintain this flexibility in the revised standard (*see, e.g.,* Document ID #s 0047, 0145, and 0157). OSHA agrees, and the revised text maintains this flexibility by indicating that the employer can choose to label workplace containers either with the same label that would be on shipped containers for the chemical under the revised rule, or with label alternatives that meet the requirements for the standard. It should be noted that while alternatives are permitted, the information must be consistent with the revised HCS. Hazard classifications must be revised as necessary to conform, and the other information provided must be revised to ensure the appropriate message is conveyed.

OSHA is not proposing to modify the remaining paragraphs on labels in the current HCS, including those that deal with alternatives to affixing labels to stationary containers; labeling of portable containers where the materials are transferred from a labeled container, used within a workshift, and under the control of the employee who performs the transfer; ensuring that all containers in the workplace have a label; a requirement for workplace labels to be in English and prominently displayed, while allowing the information to be in other languages as well; and the requirement for updating label information when there is new and significant information regarding the hazards of a chemical.

Several comments raised an issue regarding potential confusion resulting from the numbering of hazard categories in the GHS (*see, e.g.,* Document ID #s 0046, 0054, 0064, 0035, 0123, and 0146). As described in the GHS text, some of the hazard classes that are divided into categories use numbers to designate those categories. Chemicals posing the most serious hazards are assigned to Category 1, and higher category numbers denote less serious hazards. Labels prepared under the Hazardous Materials Information System (HMIS) and National Fire Protection Association (NFPA) systems, on the other hand, use higher numbers to indicate more severe hazards. It was argued that the different approaches would result in confusion and lead to hazardous conditions in the workplace.

OSHA recognizes that the approach to numbering hazard categories in the GHS differs from that used in the HMIS and

NFPA systems. However, the Agency does not believe that this will result in confusion. GHS category numbers determine the label elements that would be required for a chemical, but the category numbers themselves would not appear on labels. Where GHS category numbers would appear on the SDS (Section 2—Hazards identification), they would be accompanied by the label elements for the chemical, which would clearly indicate the degree of hazard. OSHA, therefore, does not anticipate that this information will cause employees to become confused. Moreover, the approach taken in the GHS (*i.e.,* assigning higher category numbers to denote less serious hazards) is consistent with the approach used in the DOT transport regulations for many years.

A few commenters also argued that a small package exemption, or some type of prioritization of information on small packages, should be permitted (Document ID #s 0043, 0046, and 0080). The current HCS does not have such an exemption or limitation, but the Agency has allowed practical accommodations in those situations where an issue has occurred. In Revision 3 of the GHS, some provisions regarding small package labels have been included (1.4.10.5.4.4, Labelling of small packagings). The competent authority is given the discretion to implement changes that allow label preparers to reduce the required information to accommodate a small package size. OSHA is not proposing to adopt such a provision, and intends to continue its current approach regarding small packages. Very small packagings are less frequent in the workplace than in consumer settings, and it is difficult to argue that employees should get less information just because of the size of the package. The practical accommodation approach OSHA has been utilizing addresses those situations where there is a valid issue, and ensures that workers receive all of the required information.

Some comments addressed objections to the specific labeling requirements for certain chemicals. For example, the National Propane Gas Association (Document ID # 0068) objected to labeling propane as being ''extremely'' flammable, stating that it is usually simply addressed as ''flammable'' in the U.S. In addition, The Fertilizer Institute (Document ID # 0045) objected to having the skull and crossbones on labels for anhydrous ammonia, stating that use of it in fertilizers is necessary for the food supply. Similarly, an argument is made by the Styrene Information and Research Center (Document ID # 0164) that no GHS Category 2 carcinogens should be labeled because it would result in more chemicals being classified as carcinogens than would be under the International Agency for Research on Cancer (IARC) criteria.

Adoption of the GHS is likely to result in a number of situations where current labeling practices are somewhat changed by the introduction of the concept of severity of hazard, and the use of different label elements to convey information. OSHA does not believe that it would be appropriate to designate substance-specific exemptions from classification for reasons unrelated to communication of hazards. In the case of propane, designating it as ''extremely flammable'' is actually already done by a number of manufacturers or distributors in the U.S., so it is not necessarily a departure from current practice. In addition, NPGA's argument that many propane distributors are small businesses who don't participate in international trade (Document ID # 0068), is not related to improving and enhancing the communication of hazards to employees in the U.S. Provision of an exemption for those engaged solely in domestic commerce would only increase employee confusion about hazardous chemicals in the workplace. Providing information about the degree of hazard will help to ensure that the material is handled with the proper care needed to prevent hazardous effects from occurring. Similarly, the fact that anhydrous ammonia is used for the food supply ignores the significant hazards this chemical poses to workers who handle it. The skull and crossbones will emphasize the degree of severity of the hazard, as well as communicate the hazard to individuals who do not read or speak English—many of whom work in the agriculture industry.

In addition, the mere fact that incorporation of the GHS criteria might change the number of chemicals classified is not a reason to disregard the carcinogens in Category 2. The IARC criteria were one of the primary sources used for development of the GHS criteria, so it does not appear that there is a significant difference in approach. OSHA has had an enforcement interpretation that would allow manufacturers of certain carcinogens, those in IARC Category IIB, to include information about their carcinogenicity on the safety data sheet but not the label. Such an interpretation would not be consistent with GHS, and is not included in the proposed provisions. Therefore, there may be some chemicals that will now have carcinogen labels in addition to SDS information as a result of implementation of the GHS. This will ensure that employees get consistent information about these chemicals from all suppliers. Furthermore, because the current HCS uses the one study criterion, it appears that more chemicals are currently covered under the HCS than under any other criteria applied.

A few comments were received regarding EPA labels for pesticides, noting that signal words in these labels would change if GHS is adopted (Document ID # 0178), and noting that the requirements for these labels are dictated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and also control the SDS content (Document ID # 0108). A commenter also argued that pesticide labels are more useful because they are risk-based rather than hazard-based (Document ID # 0108). OSHA believes these concerns are not related to the proposal. The revised HCS would maintain the exemption for additional labels on containers that are labeled in accordance with EPA requirements. If EPA decides to adopt the GHS, then labels for pesticides would be consistent with OSHA labels on other types of products. With regard to SDSs, these are required by the HCS, not FIFRA, and therefore such SDSs must be consistent with GHS provisions under these proposed changes.

While the GHS specifies the information to be placed on a label, it does not provide a specific format for placement, which is similar to current HCS requirements. It was noted that GHS does not specify a location or size of core information on a shipment (Document ID # 0066). OSHA believes that this is best left in a performance-oriented provision, allowing accommodations to be made as long as the information is located together, and is prominently displayed as required.

Other commenters noted that changing labels will create confusion and additional burden (Document ID #s 0065 and 0146); that there may be two labels and SDSs during the transition period, and that would be confusing (Document ID # 0035); and that the diamond shape of the pictogram was similar to NFPA's diamond, and therefore confusing (Document ID # 0035). It is clear that a change in labels will require a period of transition where there may be some confusion, and there will be two types of labels in the workplace. However, when the GHS is completely implemented, the current widespread confusion resulting from allowing multiple labeling approaches will be eliminated. Comprehensibility and effectiveness of hazard

communication is expected to increase as a result. OSHA believes these long-term benefits outweigh the short-term transitional issues. As discussed above, commenters in general recognized the benefits of adoption of the GHS, including enhancement of current protections, and thus supported pursuing this rulemaking. (*See, e.g.,* Document ID#s 0046, 0047, 0054, 0059, 0064, 0081, 0034, 0038, 0158, and 0165).

There were a few commenters who wanted additional elements in the labeling system, such as the water-reactive pictogram so it could be posted on buildings for fire authorities (Document ID # 0029), and a numerical ranking system similar to those currently in use under voluntary systems (Document ID # 0013). In the case of the water-reactive pictogram, there is certainly nothing in the current HCS or in the GHS that precludes its use to mark buildings, but that is a purpose that is outside the scope of the system at this point. In terms of the numerical ranking system, the GHS was developed based on consideration of existing national and regional hazard communication systems, and none of those currently employ a numerical ranking system. Thus, such an approach was not considered in the process.

(g) Safety data sheets. The proposed revisions to this paragraph are confined primarily to paragraph (g)(2), other than conforming terminology regarding classification and SDSs. Paragraph (g)(2) of the current HCS indicates what information must be included on an SDS. It does not specify a format for presentation, or an order of information. Chemical manufacturers and importers have been free to use whatever format they choose, as long as the information is provided.

While this performance orientation was supported by chemical manufacturers when the standard was originally promulgated, this was largely based on those who were already providing SDSs and did not want to change their format. As the scope of the standard was expanded to cover other industries, it became clear that SDS users preferred an order of information or a format. In particular, stakeholders such as emergency responders were concerned that not being able to find information in the same place on every SDS could create an increased risk in situations where the information was needed quickly.

Several years after the HCS was adopted, the chemical manufacturers themselves responded to these concerns by developing a national consensus standard that included a 16-section SDS (ANSI Z400). The titles of each section were established, as was the order of presentation. The standard sought to address concerns raised by also putting information of most use to those exposed in the beginning of the SDS, with the more technical data required by health and safety professionals in later sections. They also responded to comments that indicated the SDS should be essentially ''one stop shopping'' in terms of information on a chemical, and should include other information such as how it is regulated by other Federal agencies, including transport requirements and environmental information.

In 1990, OSHA published a Request for Information (RFI) that addressed the issues of comprehensibility of labels and SDSs (55 FR 20580). There were nearly 600 comments received, and the majority of respondents sought an order of information or format for SDSs. Since the international harmonization process had begun at that point, OSHA thought it would be useful to wait until a globally harmonized SDS was available before changing the requirements. However, through interpretation, the ANSI format has been acceptable for many years, as long as the SDS includes the required information (*see* CPL 2–2.38D, the compliance directive for the HCS). As explained in Section V of this preamble, OSHA believes that the implementation of a standardized SDS format will enhance hazard communication and be more protective of employee health than the current performance-oriented standard.

The 16-section format continued to be recognized in different countries and organizations over the years, including an International Labor Organization (ILO) recommendation on chemical safety, the European SDS requirements, and an International Standards Organization standard on SDSs. When the GHS was developed, it was decided that this 16-section format was already a de facto international approach, so it was adapted to be part of the GHS. One small change was made to reverse sections 2 and 3 to put hazard information before the chemical names of ingredients. This change has subsequently been adopted by ANSI and other groups to be consistent.

Since the 16-section SDS was initiated in the U.S. by industry, many companies have been using it. This will reduce the impact of adopting the GHS requirements since the major changeover to that approach has already been made by those companies. Others who continued to use different formats will need to change their SDSs to conform. There is already software available in the 16-section format, and it is expected that more tools will be available as the effective dates for compliance approach.

OSHA is proposing to modify paragraph (g)(2) to establish the section numbers and title headings of the sections of the SDS to be consistent with the GHS. Furthermore, a new Appendix D is being added to the standard to address safety data sheets, and it indicates what information must be included in each section.

As OSHA indicated in the ANPR, there are several sections of the SDS that address information that is outside the Agency's jurisdiction (*see* the list of sections below). OSHA will not be making these sections mandatory for inclusion, nor will any enforcement activity be directed to these sections. However, inclusion of the sections in an SDS is not precluded, and they have been included in the text of the revised standard so people will be aware that a fully GHS-compliant SDS will have to address those areas in addition to the ones mandated by OSHA.

The revised SDS would require the following sections:

Section 1. Identification
Section 2. Hazard(s) identification.
Section 3. Composition/Information on ingredients.
Section 4. First-aid measures.
Section 5. Fire-fighting measures.
Section 6. Accidental release measures.
Section 7. Handling and storage.
Section 8. Exposure controls/personal protection.
Section 9. Physical and chemical properties.
Section 10. Stability and reactivity.
Section 11. Toxicological information.
Section 16. Other information, including date of preparation of the last revision.

A note in the revised text addresses the other sections that are not mandatory for OSHA:

Section 12. Ecological information.
Section 13. Disposal considerations.
Section 14. Transport information.
Section 15. Regulatory information.

The remainder of the paragraph on SDSs remains the same as the current HCS. The proposal retains the current HCS design, ensuring the downstream flow of information from the chemical manufacturer or importer to the distributor and ultimately the employer. Other provisions regarding completion of all sections of the SDS; provisions for complex mixtures; the requirement for information to be accurate and reflect the scientific evidence; the need to update the SDS when new and significant information is available; maintenance of SDSs so they are accessible to employees; accommodations for situations where

employees travel between workplaces during a workshift; and access for OSHA and NIOSH, remain as they are in the current standard.

As was the case with labels, relatively few comments were submitted in response to the ANPR on the specific provisions for SDSs in the GHS. Those provisions are generally consistent with the current HCS, with the exception of the standardized approach described above that OSHA is proposing to include in the revised text.

Comments were received on inclusion of exposure limits on SDSs, and a number of different opinions were expressed, particularly regarding TLVs being required. Many commenters argued that TLVs should be included on the SDSs as currently required under the HCS (see, *e.g.,* Document ID #s 0042, 0179, 0021, 0038, 0124, and 0149). Others suggested they should not be required (see, *e.g.,* Document ID #s 0058, 0064, 0036, 0129, 0151, and 0163). There were also a number of commenters that suggested other types of occupational exposure limits that should be included on SDSs, such as levels from other countries, those recommended by NIOSH, and those recommended by the American Industrial Hygiene Association (see, *e.g.,* 0044, 0077, 0018, 0024, 0109, 0147, and 0171). OSHA has decided to maintain the requirement to include its mandatory permissible exposure limits (PELs) on the SDSs, and to specify, as in the existing HCS, that manufacturers should include ''any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the safety data sheet.'' This will allow inclusion of any of the different types of occupational exposure limits commenters recommended for inclusion where the SDS preparer deems it appropriate. It also helps to minimize differences between the U.S. and other countries by not providing (except for PELs) a list of U.S.-specific occupational exposure limits that must be included, yet provides protection for employees by allowing inclusion of various recommendations that will help employers design appropriate protective measures.

Several commenters appear to believe that the GHS requires disclosure of all ingredients in a mixture, unlike the current rule that has percentage cut-offs (Document ID #s 0048, 0056, and 0064), and argue that the current rule's approach should be maintained. In fact, the GHS approaches ingredient disclosure in a manner consistent with the current HCS, although the cut-offs may be different for the various health hazards covered. Similarly, it was suggested that there be a de minimis level below which SDSs would not be required (Document ID # 0178). This is already addressed by the cut-offs in the mixture classification provisions for each health hazard class. It was suggested that the GHS approach to ingredient disclosure would lead to more testing of chemicals (Document ID #s 0048 and 0056). This is not true as neither the current HCS nor the GHS require testing of any kind to be performed.

A number of comments suggested specific information to be included on the SDS, such as the Chemical Abstracts Service Registry Number (Document ID # 0044); whether a chemical is an EPA hazardous waste (Document ID # 0059 and 0108); control banding recommendations (Document ID # 0081); lethal dose data (Document ID # 0015); a miscellaneous section (Document ID # 0019); NFPA and HMIS ratings (Document ID # 0019); storage requirements (Document ID # 0019); reference to the DOT Emergency Response Guide (Document ID # 0019); and more spill cleanup and disposal information (Document ID # 0028). Much of this information is already included in the proposed SDS (such as the CAS Registry Number and lethal dose data). The other information noted could certainly be included in the SDS as additional information to that which is required by OSHA. The information referenced by these comments that falls under sections of the SDS that are not workplace-related (*e.g.,* environmental and transport information) cannot be required by OSHA. The Agency would certainly not preclude inclusion of such information by SDS preparers voluntarily, or as a result of requirements at some time in the future by the other Agencies that do have responsibility for those subject areas.

Several commenters noted that SDSs need to be written in plain language (Document ID #s 0044, 0010, and 0035). In general, the Agency agrees that SDSs should be written as plainly as possible while still conveying the required information to the intended audiences. As originally designed by ANSI, the sections in the beginning of the SDS are intended to be written in plain language, with fewer technical terms where possible. This information should be of immediate use in emergency situations for example. But many of the remaining sections of the SDS require technical information, and they are intended to be of use primarily to professionals designing protective measures or providing services such as medical surveillance to exposed employees. These sections need to retain their technical terminology in order to be useful to the professionals for these purposes.

A number of the comments received dealt with the management of SDSs, rather than the specific requirements for preparing them. For example, one commenter said that there would be a large burden associated with sending letters to obtain new SDSs, tracking their receipt, and updating workplace data bases (Document ID # 0178). The proposal would employ the same approach as the current HCS for distribution of SDSs. During the phase-in period for the standard, chemical manufacturers, importers, and distributors will be required to send a new SDS with their next shipment of a chemical to their customers. In other words, employers should automatically receive new SDSs, just as they do now when an SDS is updated. There will still be a burden associated with updating workplace records, but since users are not required to solicit new SDSs, there will not be a burden of sending letters to suppliers and tracking receipt of the responses. Furthermore, the phase-in period should be long enough that there will be turnover of chemical supplies that necessitate a new shipment in most cases.

Several commenters suggested that an online library of SDSs be created by OSHA (Document ID #s 0019, 0028, and 0146). This is an approach that was investigated by OSHA in the past, and at that time, it was determined that it would not be feasible for the Agency to maintain a complete and up-to-date data base of all the SDSs in use in American workplaces. The number of SDSs involved is very large, and there is no way for the Agency to know about each SDS or when each is updated. OSHA believes this approach is still infeasible for the Agency.

There appeared to be some concern about having two SDSs for the same product during the phase-in period, and how an employer would decide which takes precedence (Document ID # 0146). OSHA believes that the most recent version would be the one that takes precedence, and should be maintained in the workplace. It would not be necessary to maintain two versions for purposes of the proposed standard.

There was also a comment regarding SDS management for construction sites, and the use of a FAXback system (Document ID # 0022). This is an issue that has long been addressed by OSHA in its compliance directive (CPL 2–2.38D), as well as in the standard itself (see paragraph (g)(8) of the existing HCS), with provisions for what would

be considered effective electronic access to SDSs. The proposed revisions to the rule do not change these requirements.

(h) Employee information and training. The GHS does not include harmonized training requirements, but does recognize the important role that training plays in hazard communication. For example, 1.1.3.1.3 of the GHS states:

> In the workplace, it is expected that all of the GHS elements will be adopted, including labels that have the harmonized core information under the GHS, and safety data sheets. It is also anticipated that this will be supplemented by employee training to help ensure effective communication.

OSHA agrees that training is key to ensuring effective hazard communication. Under the current HCS, training is used to explain the label and SDS systems used in a workplace, as well as addressing the hazards of chemicals and protective measures. While the written information provided is clearly important, training is an opportunity to explain the data and helps to ensure that the messages are being received accurately so they can be acted on appropriately. (See Section V of this preamble.)

The training provisions in the HCS do not need to be modified to be consistent with the GHS since it does not include such requirements. However, OSHA is proposing small revisions to track terminology used in other paragraphs, as well as to clarify the requirement to train on the details of the hazard communication program in (h)(3)(iv). While this has always been required in the HCS, OSHA believes that modifying the text slightly will convey the need to address both the labels that will arrive on shipped containers, as well as any workplace-specific system that the employer uses. In addition, the training on SDSs must include the order of information. So the revised text would read:

> The details of the hazard communication program developed by the employer, including an explanation of the labels received on shipped containers and the workplace labeling system used by their employer; the safety data sheets, including the order of information and how employees can obtain and use the appropriate hazard information.

In addition, OSHA is proposing that employers train or re-train employees regarding the new labels and safety data sheets within two years after the rule is promulgated. The Agency believes that the training needs to be completed by the time employees begin to see labels and safety data sheets with the new information on them, rather than waiting until after the transition has been completed. Comment is invited on this approach.

Some commenters noted that training would be required to ensure employees understand, in particular, the symbols and pictograms that will be used on labels. Some argued that the burden would be substantial given that all training would have to be revised, and the time and resources required would be significant (*see, e.g.,* Document ID #s 0178 and 0153). However, many agreed that having a standardized approach to labels and SDSs will make training easier in the future than training under the current rule where chemical manufacturers and importers can use whatever formats they choose (*see, e.g.,* Document ID #s 0042, 0072, 0077, and 0030).

Marshfield Clinic (Document ID # 0028) noted that communication of information about chemicals and other hazardous substances:

> * * *[I]s one of the more difficult to get across to workers. It is very appreciated that OSHA is revisiting this. Standardization will greatly assist in giving workers a better understanding of the hazards they may encounter when working with chemicals and other hazardous substances.

Similarly, Alcoa (Document ID # 0042) suggested that: ''A standardized format will simplify hazard communication training and the use of pictograms will alleviate some of the problems presented by poor language skills.''

There were a few commenters who argued that the standardized approach either would not simplify training, or they did not know if it would (*see, e.g.,* Document ID #s 0065 and 0078). Another noted that the current approach is fine for companies that are domestic only (Document ID # 0026).

There were also many comments related to outreach that suggested compliance assistance in the area of employee training. As OSHA noted in the ANPR, the Agency is considering the development of generic training on symbols to make available to employers (71 FR 53624). OSHA has been working with NIOSH to prepare training on symbols and pictograms in particular (addressed by NIOSH in their comment at Document ID # 0082). However, it is expected that there will be other products related to training as well, both from OSHA and from the private sector.

(i) Trade secrets. The current HCS includes provisions that define what can be considered trade secret information under the rule, as well as delineate the conditions under which this information must be disclosed to ensure the safety and health of exposed employees. These provisions were a significant focus of the original rulemaking on the HCS, and reflect the common law of the United States on this topic. In the years since the rule has been in effect, however, this issue has not been as important. Overall, since these provisions were promulgated, it appears that fewer claims of trade secrecy have been made, and fewer requests for trade secret disclosure have been received, than were anticipated during the rulemaking process.

The negotiations for development of the GHS recognized at the outset that trade secrets—generally referred to internationally as confidential business information—would be an issue of concern. Guiding principles included the following:

> In relation to chemical hazard communication, the safety and health of workers, consumers and the public in general, as well as the protection of the environment, should be ensured while protecting confidential business information, as prescribed by the competent authorities.

As the issue was considered further, it was recognized that laws regarding confidential business information were very much country-specific, and had a broader context than rules for classification and labeling. Such laws could not be modified or harmonized through the process of harmonizing classification and labeling. Thus it was determined that the GHS would recognize the importance of the issue, and provide principles for countries to follow when adopting the provisions. These principles are consistent with the approach already incorporated into the HCS.

First, the type of information that can be considered confidential or trade secret is limited to the names of chemicals and their concentrations in mixtures. Under the current HCS, OSHA did not require that concentrations in mixtures be disclosed, and thus limited claims to specific chemical identities. This is the primary difference between the current rule and the proposed revisions to HCS. To be consistent with GHS, OSHA is proposing to add percentage composition information to the SDS. This introduces the possibility that trade secret claims will be made for this type of information, as well as specific chemical identities. Thus the proposal revises the text of the current rule to add consideration of percentage composition everywhere specific chemical identity is addressed in the provisions.

The GHS further suggests that SDSs indicate when information has been withheld as confidential; that the information be disclosed to the competent authority upon request and

under condition of confidentiality; that the information must be disclosed in a medical emergency, with mechanisms to protect it while ensuring timely disclosure; that the information be disclosed in non-emergency situations, also under conditions of protecting confidentiality; and that the competent authority have procedures to deal with challenges to this process. All of these principles have already been included in the trade secret provisions of the HCS, and are maintained in the revised rule as previously promulgated. The proposed revisions simply conform terminology, and add text regarding percentage composition being subject to the same provisions as specific chemical identity.

Very few comments on trade secrets or confidential business information were received in response to the ANPR. It was suggested that protection of confidential business information should be an implementation principle for the GHS modifications to HCS (Document ID #s 0072 and 0179), and that the current trade secret position should be retained (Document ID # 0049). There was also a comment that indicated full disclosure of all ingredients should be required on the SDS unless the employer provides a justification to the Agency showing that a particular ingredient is a trade secret, and demonstrating that the economic damage of disclosure exceeds the damage associated with the potential health effects to exposed employees (Document ID # 0044). In addition, the National Paints and Coatings Association (NPCA) argued that the approaches to protection of confidential business information need to be harmonized (Document ID # 0050). As NPCA noted, different approaches may lead to development of different SDSs for various authorities.

As noted above, laws regarding confidential business information are generally not specific to classification and labeling requirements, but rather reflect an overall approach of a country. It was not possible to change such laws through the harmonization of classification and labeling, and thus the limit of the agreement was to establish the principles already described. Those principles are consistent with law in the United States, and do not require any modifications to the current HCS approach to be consistent with the GHS.

As implementation moves forward in different countries and regions, conformance to the GHS principles should lead to increased harmonization of approaches. This is an area that should be monitored to determine if further action can be defined and implemented. OSHA does not believe it would be prudent to implement changes in the approach to trade secret protection and disclosure before that time.

(j) Effective dates. OSHA is proposing to require implementation of the revisions to the HCS in 3 years after the final rule is completed. Training would be required two years after the final rule, and all provisions would be implemented in 3 years. During the transition period, employers would be required to be in compliance with either the existing HCS or the modified GHS, or both. OSHA recognizes that hazard communication programs will go through a period of time where labels and safety data sheets under both standards will be present in the workplace. This will be considered acceptable, and employers are not required to maintain two sets of labels or safety data sheets for compliance purposes. However, given the longstanding requirements for a hazard communication program, there must be no time during the transition period when hazard communication is not in effect in the workplace, and information is not available under either the existing requirements or the new final standard for exposed employees.

Many comments were received on the issue of phasing in the requirements of the GHS, as well as on current practices and time frames required for various activities. There was a wide variety of opinions, as well as a number of factors that commenters suggested should be considered in establishing effective dates.

OSHA specifically requested input on the possibility of phasing in requirements based on the size of the business. While a few commenters supported this approach (*see, e.g.,* Document ID #s 0022, 0144, 0146, and 0151), many more indicated that this would not be appropriate (*see, e.g.,* Document ID #s 0042, 0018, 0033, 0107, 0116, 0123, 0147, 0154, and 0171). One reason given was that the supply chain may involve large businesses purchasing from small businesses, and thus they would need information from them in order to comply themselves (Document ID #s 0080 and 0123).

There were also those who thought the phasing should be coordinated with other trading partners, particularly the European Union (Document ID #s 0072, 0080, 0081, 0179, 0024, 0163, and 0171). The European phasing is taking place over a long period of time because of the REACH requirements for chemicals that are going into effect. The long time periods being considered do not necessarily reflect a determination that the amount of time is needed just for compliance with GHS. Another suggestion that had support was to phase in substances first, and then cover mixtures, or to have a 3-step phase-in that includes intermediates before mixtures (*see, e.g.,* Document ID #s 0104, 0021, 0024, 0034, 0036, 0122, 0141, and 0154).

A number of other phasing approaches were also mentioned, including selecting the 200 most produced chemicals by weight and then sort them by hazard (Document ID # 0139); examining the data available on the chemicals in determining which to do first (Document ID #s 0081 and 0036); basing it on the time to use up stockpiles (Document ID # 0022); and ''sufficient'' time to work through the supply chain (Document ID #s 0068 and 0122).

There were also suggestions for a specific number of years, or a range of years. Some of these suggested less than 3 years (*see, e.g.,* Document ID #s 0064, 0019, and 0028). A number suggested 3 to 5 years, or in some cases, 6 years (*see, e.g.,* Document ID #s 0042, 0046, 0104, 0015, 0032, 0038, 0111, 0125, and 0163). And there were some commenters who suggested anywhere from 7 to 13 years for full compliance (*see, e.g.,* Document ID #s 0050, 0077, 0078, 0018, 0116, 0129, 0141, and 0164).

OSHA decided on the 3-year proposal based on a consideration of the widely diverse viewpoints expressed, as well as information provided by commenters about stockpiles and other issues. It is clear that activities have already begun by a number of vendors of software programs for hazard classification and labeling to convert to the GHS and make programs available for companies to use to comply with requirements around the world as countries adopt the GHS. This work is already underway, and by the time this rulemaking is finalized, it is expected that much of it will be completed. And there were commenters that indicated that work is already being done in their companies to comply, particularly those that are multinational. (*See* Section VII for an analysis of activities already underway.)

While the Agency wants to provide sufficient time for compliance, there is also a concern about the effect on employees of dealing with multiple systems during a transition period. While some time period when the currently required labels and the new GHS labels will co-exist is inevitable, the longer this period continues, the less effective the communication to employees will be. It is therefore important to minimize the effects of the

transition on the effectiveness of hazard communication by ensuring that is completed in a timely fashion, while allowing adequate time for an orderly changeover.

Requiring the phasing in of substances first, and then mixtures, clearly has some persuasive logic as an approach. However, the supply chain is not always orderly and logical. It cannot be assumed, for example, that no mixtures can be completed until all substances are done. Mixtures that are comprised of substances that are widely available, and their hazards are well known, do not need an extensive time period to complete. Some mixtures are comprised of other mixtures rather than substances, and producers of such mixtures will need information on the component mixtures before they can comply. Waiting till the end of an extensive time period to complete their work may not allow them to meet the compliance dates. These types of issues are generally addressed by the market, and the needs of a manufacturer's customers, and cannot be individually addressed in a phasing-in period. Further comment on this issue would be helpful to determine whether the final rule should include such phasing by type of product.

Other Standards Affected by the GHS Modification to the HCS

OSHA has reviewed all its standards and is proposing to modify standards in General Industry (29 CFR part 1910), Construction (29 CFR part 1926), and Shipyards, Marine Terminals and Longshoring (29 CFR parts 1915, 1917 and 1918) that contain hazard classification and communication provisions in order that they will be internally consistent and aligned with the GHS modifications to the HCS. There is strong support in the record for including these OSHA standards in this rulemaking.

The issue of how to deal with OSHA's existing standards was raised in the ANPR. (71 FR 53617; Sept. 12, 2006). OSHA specifically requested input on how GHS provisions addressing classification of physical hazards such as flammable liquids would impact other OSHA standards. OSHA also asked whether physical hazard definitions in other standards should be changed at the same time as HCS (71 FR at 53623, 53626).

In response to the ANPR, the majority of commenters who addressed the impact of the GHS on other OSHA standards recommended the Agency review all its standards and update them for consistency with GHS (Document ID #s 0046, 0050, 0054, 0072, 0077, 0179, 0031, 0038, 0107, 0116, 0145, 0147, 0154, 0155, 0163, 0165, and 0171). Abbott Laboratories addressed the issue in terms of substance specific standards:

> OSHA should conduct a complete review of substance specific standards and determine how they need to be changed in order to be consistent with GHS. These changes should be made concurrent with the implementation of GHS. (Document ID # 0046)

Other commenters agreed, urging OSHA to complete these revisions in one rulemaking. (Document ID #s 0079, 0123, 0137, 0154, and 0157). For example, the National Paint & Coatings Association, whose members produce up to 70,000 formulated products, urged OSHA to update the standards impacted by the GHS modification to the HCS to ''minimize discrepancies and inconsistency''. (Document ID # 0050). Similar views were expressed by the Marshfield Clinic, the Hazard Communication Group and BASF (Document ID #s 0028, 0154, 0119, 0145, and 0155). NIOSH supported OSHA's plan to ''adopt the specific labeling requirement and the safety data sheet (SDS) order of information'' in the GHS, which, if substance specific standards were not included, would lead to internal inconsistencies (Document ID # 0081). The American Chemical Society noted that it would be best if OHSA identifies and updates all affected OSHA standards at once, otherwise industry may not realize all potential benefits (Document ID # 0165). The Association of Occupational Health Professionals in Healthcare (AOHP) stated:

> The standardization needs to be applied from the beginning until the end of the production, through distribution and use by the end user. We would recommend that any other OSHA standards that would be affected by the adoption of the HCS be changed to coincide with the implementation of the HCS'' (Document ID # 0051)

Of the commenters who specifically addressed adopting GHS provisions on physical hazards, many urged the Agency to conform the OSHA standards to the GHS in order to minimize discrepancies and ensure consistency (Document ID #s 0050, 0072, 0104, 0105, 0018, 0012, 0144, 0139 and 0140). One commenter, 3M, noted that adoption of the GHS physical hazard criteria (without changing OSHA standards) would ''create unacceptable inconsistencies between OSHA standards'' (Document ID # 0128).

However, several of the commenters pointed out some of the difficulties with adoption of the GHS physical hazards criteria (Document ID #s 0077, 0031, 0034, 0038, 0145, and 0166). MRS Associates stated that ''flammability is the key physical hazard that needs to have consistent definition and criteria because it affects other standards'' (Document ID # 0145). Other commenters agreed with MRS associates (Document ID #s 0072, 0105, 0179, 0145, and 0163). Manufacturer 3M posited that ''consistent classification between HCS and storage and handling requirements is the most critical potential problem'' (Document ID # 0128). However, some commenters recommended OSHA limit changes in order to facilitate GHS implementation. (Document ID #s 0047, 0064, 0077, 0104, and 0115). Dow Chemical wrote:

> Dow believes that OSHA should implement only those changes needed to facilitate GHS implementation. While this may necessitate some duplicative information on SDSs (for example, listing both GHS and NFPA flammability classifications), this would cause less disruption and confusion than trying to make changes i[n] associated standards that might then be in conflict with other current standards outside OSHA's control (for example, State and local building and fire codes) (Document ID # 0047).

OSHA's proposal reflects the advantages of harmonizing, but takes into account the places where harmonization might be too difficult at this time because it would substantially change the scope of coverage of a current standard or make OSHA's standards incompatible with other widely accepted standards.

OSHA reviewed all its standards and has proposed changes to ensure that they are internally harmonized to facilitate safety and health for the employer and employee. To that end, OSHA is proposing to apply the GHS elements it is adopting in the modified HCS to its other standards. Provisions in OSHA standards, such as the substance-specific standards that set forth hazard and precautionary statements will be changed to be consistent with GHS terminology. Also, OSHA is proposing to modify provisions of the standards that reference the HCS definitions to maintain coverage or consistency with the modified HCS, and to change provisions in standards that affect the information requirements of the safety data sheet (SDS). OSHA will also maintain the current HCS definitions in the several standards that reference the HCS for which the adoption of GHS definitions could potentially impact the scope of those standards.

Some standards are not being included in this rulemaking. As explained in more detail below, OSHA is not proposing at this time to change

certain standards that reference consensus standards such as National Fire Protection Association (NFPA) standards. In addition, OSHA is not proposing any changes in 29 CFR 1910.109 Explosives and Blasting Agents and 29 CFR 1926.914 definitions for Blasting in Excavation Work Under Compressed Air.

Substance Specific Health Standards

OSHA proposes to update substance-specific health standards in General Industry, Construction, and Maritime, whether they specifically reference HCS or contain their own hazard communication requirements. OSHA is proposing to modify these standards in the following areas:

- Revise the provisions covering workplace signs to require warning statements that are consistent with the GHS modifications to HCS;
- Revise all standards to reference the modified HCS for labels, safety data sheets, and training, and identify the hazards that need to be addressed;
- Maintain the requirement to avoid creating dust currently in some substance-specific health standards, but for which GHS modifications contain no equivalent statements at this time;
- Maintain or specify language for contaminated clothing and debris;
- Update most definitions in § 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories, to maintain compatibility with the modified HCS; and
- Change the name Material Safety Data Sheets to Safety Data Sheets and require information on them to be compliant with GHS in content, format and order.

OSHA is proposing to update the language for workplace signs and labels to incorporate the GHS hazard statement and the applicable precautionary statement(s), where required. Most OSHA substance-specific health standards require hazard warning signs, usually for regulated areas, and the language required on the signs varies greatly (*e.g.*, Asbestos, 4-Nitrobiphenyl, 13 Carcinogens, Vinyl Chloride, Inorganic Arsenic, Cadmium, Benzene, Coke Oven Emissions, Cotton Dust, DBCP, Acrylonitrile, Formaldehyde, Methylenedianiline, 1,3-Butadiene, Methylene Chloride, and Lead). With the GHS revision, these standards retain the requirements for specific warning language for specific signs; however, OSHA is proposing to modify the language to be compatible with GHS and consistent throughout the OSHA standards.

OSHA believes that having signs and labels in the same formats and containing identical warnings for the same health effects will make it far easier for employers and employees to quickly recognize the hazard and the degree of danger of a hazard, thus enhancing communication. For example, many of the substance-specific health standards were regulated as carcinogens; however, the hazard statements required on signs and labels range from ''Cancer Hazard'' in Inorganic Arsenic (29 CFR 1910.1018) to ''Cancer—Suspect agent'' in Vinyl Chloride (29 CFR 1910.1017) to ''May Cause Cancer'' in Methylenediamiline (MDA) (29 CFR 1910.1050). The GHS revision to HCS will standardize the warning language to ''May Cause Cancer'' for each standard regulated as a carcinogen. NAHB addressed this issue, positing that the different signal words (''Danger'' versus ''Warning'') and different hazard statements (''May cause cancer'' versus ''Suspected of causing cancer'') may create confusion (Document ID # 0065). OSHA believes that the signal words and hazard statements in its substance-specific standards would be more consistent if they are changed to reflect the GHS modification to HCS.

Currently, OSHA standards appear to suggest gradations of cancer hazards with ''cancer hazard'' seeming to signal the greatest hazard. However, there is no gradation of hazard. The standards were promulgated at different times and reflect the language used at the time and not relative degrees of hazard. With GHS harmonization, the potential misperception of degree of carcinogenic hazard is alleviated and the process is simplified with one statement warning that the chemical is carcinogenic. ''May Cause Cancer'' means ''carcinogen,'' is equivalent to any of the warnings for the current standards, and communicates the serious adverse health effects caused by carcinogens. Nevertheless, NAHB's concerns with potential confusion over hazard statements and signal words are well taken. This highlights the need for training. OSHA believes that after hazard communication training ''May Cause Cancer'' and other GHS compliant warnings will be quickly recognized and easily understood, leading to more effective avoidance of the various hazards to which workers are exposed. See Table XV–1 for a comparison of the language on current signs to signs modified to be consistent with the modified HCS.

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Table XV-1 Proposed Regulated Area Signs

Standard	Substance	Original signs	Proposed Changes
1910.1001	Asbestos Regulated areas Where the use of respirators and protected clothing is required	DANGER, ASBESTOS, CANCER AND LUNG DISEASE HAZARD, AUTHORIZED PERSONNEL ONLY, RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN THIS AREA	DANGER ASBESTOS MAY CAUSE CANCER CAUSES DAMAGE TO LUNGS AUTHORIZED PERSONNEL ONLY WEAR RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING IN THIS AREA
1910.1003	4-Nitrobiphenyl: Regulated areas Regulated areas covered by paragraph (C) (5)	CANCER-SUSPECT AGENT AUTHORIZED PERSONNEL ONLY CANCER-SUSPECT AGENT EXPOSED IN THIS AREA IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES AUTHORIZED PERSONNEL ONLY	DANGER (CHEMICAL IDENTIFICATION*) MAY CAUSE CANCER AUTHORIZED PERSONNEL ONLY DANGER (CHEMICAL IDENTIFICATION) MAY CAUSE CANCER WEAR AIR-SUPPLIED HOODS, IMPERVIOUS SUITS, AND PROTECTIVE EQUIPMENT IN THIS AREA AUTHORIZED PERSONNEL ONLY *(Use this template for all 13 carcinogens)
1910.1004	alpha-Naphthylamine:		See 1910.1003
1910.1005	Methyl chloromethyl ether:		See 1910.1003
1910.1006	3,3'-Dichlorobenzidine (and its salts):		See 1910.1003
1910.1007	bis-Chloromethyl ether:		See 1910.1003
1910.1008	beta-Naphthylamine,:		See 1910.1003
1910.1009	Benzidine:		See 1910.1003
1910.1010	4-Aminodiphenyl:		See 1910.1003
1910.1011	Ethyleneimine:		See 1910.1003
1910.1012	beta-Propiolactone:		See 1910.1003

Standard	Substance	Original signs	Proposed Changes
1910.1013	2-Acetylaminofluorene:		See 1910.1003
1910.1014	4-Dimethylaminoazo-benzene:		See 1910.1003
1910.1015	N-Nitrosodimethylamine:		See 1910.1003
1910.1017	Vinyl chloride: Regulated Areas Hazardous operations	CANCER-SUSPECT AGENT AREA AUTHORIZED PERSONNEL ONLY CANCER-SUSPECT AGENT IN THIS AREA PROTECTIVE EQUIPMENT REQUIRED AUTHORIZED PERSONNEL ONLY	DANGER VINYL CHLORIDE MAY CAUSE CANCER AUTHORIZED PERSONNEL ONLY DANGER VINYL CHLORIDE MAY CAUSE CANCER WEAR RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING IN THIS AREA AUTHORIZED PERSONNEL ONLY
1910.1018	Inorganic arsenic	DANGER INORGANIC ARSENIC CANCER HAZARD AUTHORIZED PERSONNEL ONLY NO SMOKING OR EATING RESPIRATOR REQUIRED	DANGER INORGANIC ARSENIC MAY CAUSE CANCER DO NOT EAT, DRINK OR SMOKE WEAR RESPIRATORY PROTECTION IN THIS AREA AUTHORIZED PERSONNEL ONLY
1910.1025	Lead	WARNING LEAD WORK AREA POISON NO SMOKING OR EATING	DANGER LEAD MAY DAMAGE FERTILITY OR THE UNBORN CHILD CAUSES DAMAGE TO THE CENTRAL NERVOUS SYSTEM DO NOT EAT, DRINK OR SMOKE IN THIS AREA

Standard	Substance	Original signs	Proposed Changes
1910.1027	Cadmium	DANGER CADMIUM CANCER HAZARD CAN CAUSE LUNG AND KIDNEY DISEASE AUTHORIZED PERSONNEL ONLY RESPIRATORS REQUIRED IN THIS AREA	DANGER CADMIUM MAY CAUSE CANCER CAUSES DAMAGE TO LUNGS AND KIDNEYS WEAR RESPIRATORY PROTECTION IN THIS AREA AUTHORIZED PERSONNEL ONLY
1910.1028	Benzene	DANGER BENZENE CANCER HAZARD FLAMMABLE - NO SMOKING AUTHORIZED PERSONNEL ONLY RESPIRATOR REQUIRED	DANGER BENZENE MAY CAUSE CANCER HIGHLY FLAMMABLE LIQUID AND VAPOR DO NOT SMOKE WEAR RESPIRATORY PROTECTION IN THIS AREA AUTHORIZED PERSONNEL ONLY
1910.1029	Coke oven emissions	DANGER CANCER HAZARD AUTHORIZED PERSONNEL ONLY NO SMOKING OR EATING RESPIRATOR REQUIRED	DANGER COKE OVEN EMISSIONS MAY CAUSE CANCER DO NOT EAT, DRINK OR SMOKE WEAR RESPIRATORY PROTECTION IN THIS AREA AUTHORIZED PERSONNEL ONLY
1910.1043	Cotton Dust	WARNING COTTON DUST WORK AREA MAY CAUSE ACUTE OR DELAYED LUNG INJURY (BYSSINOSIS) RESPIRATORS REQUIRED IN THIS AREA	DANGER COTTON DUST CAUSES DAMAGE TO LUNGS (BYSSINOSIS) WEAR RESPIRATORY PROTECTION IN THIS AREA
1910.1044	1,2-Dibromo-3-chloropropane (DBCP)	DANGER 1,2-Dibromo-3-chloropropane (Insert appropriate trade or common names) CANCER HAZARD AUTHORIZED PERSONNEL ONLY RESPIRATOR REQUIRED	DANGER 1,2-DIBROMO-3-CHLOROPROPANE MAY CAUSE CANCER WEAR RESPIRATORY PROTECTION IN THIS AREA AUTHORIZED PERSONNEL ONLY

Standard	Substance	Original signs	Proposed Changes
1910.1045	Acrylonitrile (AN)	DANGER ACRYLONITRILE (AN) CANCER HAZARD AUTHORIZED PERSONNEL ONLY RESPIRATORS MAY BE REQUIRED	DANGER ACRYLONITRILE (AN) MAY CAUSE CANCER RESPIRATORY PROTECTION MAY BE REQUIRED IN THIS AREA AUTHORIZED PERSONNEL ONLY
1910.1047	Ethylene oxide (EtO)	DANGER ETHYLENE OXIDE CANCER HAZARD AND REPRODUCTIVE HAZARD AUTHORIZED PERSONNEL ONLY RESPIRATORS AND PROTECTIVE CLOTHING MAY BE REQUIRED TO BE WORN IN THIS AREA	DANGER ETHYLENE OXIDE MAY CAUSE CANCER MAY DAMAGE FERTILITY OR THE UNBORN CHILD RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING MAY BE REQUIRED IN THIS AREA AUTHORIZED PERSONNEL ONLY
1910.1048	Formaldehyde Regulated Areas	DANGER FORMALDEHYDE IRRITANT AND POTENTIAL CANCER HAZARD AUTHORIZED PERSONNEL ONLY	DANGER FORMALDEHYDE MAY CAUSE CANCER CAUSES SKIN, EYE, AND RESPIRATORY IRRITATION AUTHORIZED PERSONNEL ONLY
	Storage Areas for Contaminated Clothing and Equipment	DANGER FORMALDEHYDE-CONTAMINATED [CLOTHING] EQUIPMENT AVOID INHALATION AND SKIN CONTACT	DANGER FORMALDEHYDE-CONTAMINATED [CLOTHING] EQUIPMENT DO NOT BREATHE VAPOR DO NOT GET ON SKIN
1910.1050	Methylenedianiline (MDA)	DANGER MDA MAY CAUSE CANCER LIVER TOXIN AUTHORIZED PERSONNEL ONLY RESPIRATORS AND PROTECTIVE CLOTHING MAY BE REQUIRED TO BE WORN IN THIS AREA	DANGER MDA MAY CAUSE CANCER CAUSES DAMAGE TO THE LIVER RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING MAY BE REQUIRED IN THIS AREA AUTHORIZED PERSONNEL ONLY

Standard	Substance	Original signs	Proposed Changes
1926.60	MDA	DANGER MDA MAY CAUSE CANCER LIVER TOXIN AUTHORIZED PERSONNEL ONLY RESPIRATORS AND PROTECTIVE CLOTHING MAY BE REQUIRED TO BE WORN IN THIS AREA	DANGER MDA MAY CAUSE CANCER CAUSES DAMAGE TO THE LIVER RESPIRATORS AND PROTECTIVE CLOTHING MAY BE REQUIRED TO BE WORN IN THIS AREA AUTHORIZED PERSONNEL ONLY
1926.62	Lead	WARNING LEAD WORK AREA POISON NO SMOKING OR EATING	DANGER LEAD MAY DAMAGE FERTILITY OR THE UNBORN CHILD CAUSES DAMAGE TO THE CENTRAL NERVOUS SYSTEM DO NOT EAT, DRINK OR SMOKE IN THIS AREA
1926.1101	Asbestos Regulated areas Where the use of respirators and protected clothing is required	DANGER, ASBESTOS, CANCER AND LUNG DISEASE HAZARD, AUTHORIZED PERSONNEL ONLY, RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN THIS AREA	DANGER ASBESTOS MAY CAUSE CANCER CAUSES DAMAGE TO LUNGS AUTHORIZED PERSONNEL ONLY WEAR RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING IN THIS AREA
1926.1127	Cadmium	DANGER CADMIUM CANCER HAZARD CAN CAUSE LUNG AND KIDNEY DISEASE AUTHORIZED PERSONNEL ONLY RESPIRATORS REQUIRED IN THIS AREA	DANGER CADMIUM MAY CAUSE CANCER CAUSES DAMAGE TO LUNGS AND KIDNEYS WEAR RESPIRATORY PROTECTION IN THIS AREA AUTHORIZED PERSONNEL ONLY

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OSHA's proposal would result in all the substance-specific health standards making reference to the HCS and would remove the specific language that must be included on a label for raw materials, mixtures, and products. Currently, OSHA substance-specific standards are inconsistent in that some have their own hazard communication requirements while others reference the HCS and still others are silent, but still are covered by HCS. The new paragraph that will reference the modified HCS in each substance specific standard states:

( ) *Hazard communication.* The employer shall include *(insert name of chemical)* in the workplace hazard communication program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of *(insert name of chemical)* and safety data sheets, and is trained in accordance with the provisions of HCS and paragraph () of this section. The employer shall provide information on at least the following hazards: *(insert hazards)*

Requiring standards to reference HCS will ensure consistency with the GHS revisions and consistency among the standards, and consistency when the specific chemical is part of a mixture. Removal of the current specific warning language is essential for adoption of the GHS language. To leave these provisions

in the standards would result in the untenable situation of two potentially conflicting requirements, only one of which (the reference to HCS) would be in accord with the GHS modifications. Moreover, the hazard statements specified for the chemical in the standard may no longer be correct when the chemical is part of the mixture. As for the standards that now simply reference HCS, labeling will no longer be performance-oriented where producers and employers could choose any language and format that conveyed the necessary information. The GHS revision to HCS requires specific GHS elements, including pictograms, hazard and precautionary statements and signal words on labels.

OSHA recognizes that employers have relied upon the warning language for labels in the substance-specific standards and that the absence of language where it had been in the standard could cause some initial confusion as to what, if anything, is required. Therefore, OSHA is proposing to provide guidance on the potential health outcomes that must be reviewed when classifying a substance. The Agency is not attempting to formally classify each substance; rather, OSHA is proposing to provide a list of health effects that will assist the classifier in determining what must be considered for inclusion on the new labels. The GHS classification process for a specific substance as proposed in this revision of the HCS will dictate the hazard warnings and the precautionary statements that will be required on the new GHS-compliant labels. In determining which hazards to include in the substance specific standards, the Agency's primary sources on health effects were its own information gained in rulemaking and subsequent experience, the NIOSH Pocket Guide to Chemical Hazards (2005), and the International Chemical Safety Cards (ICSC), which are an undertaking of the International Programme on Chemical Safety (a joint activity of three cooperating International Organizations: namely the United Nations Environment Programme (UNEP), the International Labor Office (ILO) and the World Health Organization (WHO)), and which are peer reviewed by a group of internationally recognized experts. As a secondary source, OSHA also considered the European Union's (EU) ''Proposal for a Regulation of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures, and amending Directive 67/548/EEC and Regulation (EC) No 1907/2006''. From these sources, OSHA developed hazard endpoints that were to be included in the substance-specific health standards based on two criteria: (1) the health hazard was the basis for the original rulemaking; or (2) the health hazard was asserted by OSHA, NIOSH or ICSC, and confirmed by a second source. For example, acrylonitrile (AN) 1910.1045 was regulated based on its carcinogenicity. Skin sensitization was acknowledged by OSHA, ICSC, and EU; skin irritation by OSHA, NIOSH, and EU; respiratory tract irritation by ICSC and EU; eye irritation by OSHA, NIOSH, and ICSC; liver effects and central nervous system effects by ICSC and NIOSH; acute toxicity by OSHA, ICSC, and EU; and flammability by ICSC, NIOSH and EU. Because all these effects met the criteria for inclusion, skin irritation, respiratory irritation, eye irritation, liver effects, central nervous system effects, acute toxicity, and flammability were added as potential hazards to AN. See Table XV–2 for the proposed list of health effects for each substance-specific health standard.

OSHA is proposing to maintain specific language for labels in its substance-specific health standards for containers of contaminated clothing or waste and debris even though these labels may not be consistent with the GHS. This is to ensure that protection gained from communicating these hazards to the downstream recipients of the materials is not lessened. Substances found on contaminated clothing and waste and debris often occur in unknown and frequently small quantities. In order to ensure and maintain protection for employees in the receiving workplaces, labeling of these hazards is essential.

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Table XV-2 Health Effects Determined for the Substance Specific Standards

Standard Number	Substance	Health effects	Source
1910.1001	Asbestos	Cancer and lung effects	OSHA/NIOSH/ICSC/EU
1910.1003	4-Nitrobiphenyl:	Cancer	OSHA/NIOSH/ICSC/EU
1910.1003	Alpha-Naphthylamine:	Cancer: skin irritation, and acute toxicity effects	OSHA/NIOSH/ICSC/EU
1910.1003	Methyl chloromethyl ether:	Cancer; skin ,eye and respiratory effects; acute toxicity effects; and flammability	OSHA/NIOSH/ICSC/EU
1910.1003	3,3'-Dichlorobenzidine (and its salts):	Cancer and skin sensitization	OSHA/NIOSH/ICSC/EU
1910.1003	Bis-Chloromethyl ether:	Cancer; skin, eye, and respiratory tract effects; acute toxicity effects; and flammability	OSHA/NIOSH/ICSC/EU
1910.1003	Beta-Naphthylamine,:	Cancer and acute toxicity effects	OSHA/NIOSH/ICSC/EU
1910.1003	Benzidine:	Cancer and acute toxicity effects	OSHA/NIOSH/ICSC/EU
1910.1003	4-Aminodiphenyl:	Cancer	OSHA/NIOSH/ICSC/EU
1910.1003	Ethyleneimine:	Cancer; mutagenicity; skin and eye effects; liver effects; kidney effects; acute toxicity effects; and flammability	OSHA/NIOSH/ICSC/EU
1910.1003	Beta-Propiolactone:	Cancer; skin irritation; eye effects; and acute toxicity effects	OSHA/NIOSH/ICSC/EU
1910.1003	2-Acetylaminofluorene:	Cancer	OSHA/NIOSH
1910.1003	4-Dimethylaminoazo-benzene:	Cancer; skin effects; and respiratory tract irritation	OSHA/NIOSH/ICSC
1910.1003	N-Nitrosodimethylamine:	Cancer; liver effects; and acute toxicity effects	OSHA/NIOSH/ICSC/EU

Standard Number	Substance	Health effects	Source
1910.1017	Vinyl chloride	Cancer; central nervous system effects; liver effects; blood effects; and flammability	OSHA/NIOSH/ICSC
1910.1018	Inorganic arsenic	Cancer; liver effects; skin effects; respiratory irritation; nervous system effects; and acute toxicity effects	OSHA/NIOSH/ICSC
1910.1025	Lead	Reproductive/developmental toxicity; central nervous system effects; kidney effects; blood effects; and acute toxicity effects	OSHA/NIOSH/ICSC
1910.1026	Chromium VI	Cancer; skin sensitization; and eye irritation	OSHA/NIOSH/EU
1910.1027	Cadmium	Cancer; lung effects; kidney effects; and acute toxicity effects	OSHA/NIOSH/ICSC/EU
1910.1028	Benzene	Cancer; central nervous system effects; blood effects; aspiration; skin, eye, and respiratory tract irritation; and flammability	OSHA/NIOSH/ICSC/EU
1910.1029	Coke oven emissions	Cancer	OSHA/NIOSH
1910.1043	Cotton Dust	Lung effects	OSHA/NIOSH
1910.1044	1,2-dibromo-3-chloropropane (DBCP)	Cancer; reproductive effects; liver effects; kidney effects; central nervous system effects; skin, eye and respiratory tract irritation; and acute toxicity effects	OSHA/NIOSH/ICSC/EU
1910.1045	Acrylonitrile (AN)	Cancer; central nervous system effects; liver effects, skin sensitization, skin, respiratory, and	OSHA/NIOSH/ICSC/EU

Standard Number	Substance	Health effects	Source
		eye irritation; acute toxicity effects; and flammability	
1910.1047	Ethylene oxide (EtO)	Cancer; reproductive effects; mutagenicity; central nervous system; skin sensitization; skin, eye and respiratory tract irritation; acute toxicity effects; and flammability	OSHA/NIOSH/ICSC/EU
1910.1048	Formaldehyde	Cancer; skin and respiratory sensitization; eye, skin and respiratory track irritation; acute toxicity effects; and flammability	OSHA/NIOSH/ICSC/EU
1910.1050	Methylenedianiline (MDA)	Cancer; liver effects; and skin sensitization	OSHA/NIOSH/ICSC/EU
1910.1051	1,3 Butadiene (BD)	Cancer; eye and respiratory tract irritation; center nervous system effects; and flammability	OSHA/NIOSH/ICSC/EU
1910.1052	Methylene chloride	Cancer; cardiac effects; central nervous system effects; liver effects; and skin and eye irritation.	OSHA/NIOSH/ICSC/EU

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In addition, OSHA has determined that the hazard and precautionary statements that address creating dust in the substance-specific health standards

must be maintained even though there is no GHS equivalent. At this time, a work group formed under the UN Subcommittee of Experts for the GHS is *working to finalize* issues related to hazard and precautionary statements. As indicated in Section II of this preamble, this work is likely to be accomplished prior to the promulgation of the *Hazard Communication* final standard (See UN/SCEGHS/15/INF.26). If the UN subcommittee adopts a precautionary statement for creating dust, the paragraphs in the substance-specific standards can be removed and protection will be attained by the GHS modifications to HCS. However, if this does not occur, OSHA intends to continue to require them in the standards.

OSHA's Cadmium Standard provides an example of this issue. In paragraphs 1910.1027(m)(3)(i) and (ii), containers must be labeled in accordance with HCS and the label must include the phrase ''Avoid Creating Dust.'' In this case, there is no equivalent statement in GHS. Therefore, OSHA would continue to require this statement on labels. That said, OSHA believes inclusion in GHS would be the best way to require this information and if the UN subcommittee has completed its work in time, the statements could be removed from the standards, and the GHS modification to HCS would be relied upon to require the warning.

OSHA is proposing to modify most definitions in § 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories (the laboratory standard), in order to maintain compatibility with HCS. This is consistent with the goal of this rulemaking and the original intent of the laboratory standard. OSHA explained in the preamble to the laboratory standard the importance of having the HCS and the laboratory standard both use the same definitions for hazardous chemicals.

> The term ''hazardous chemical'' used in this final rule relies on the definition of ''health hazard'' found in the OSHA Hazard Communication Standard. As discussed in the scope and application section above, commenters urged OSHA to maintain consistency in terms between the Hazard Communication Standard and this final standard since laboratories are subject to both regulations. (55 FR 3315 Jan. 31, 1990)

There is one exception in the laboratory standard and that is the definition of ''select carcinogens.'' (§ 1910.1450(b)). In this rulemaking, OSHA is proposing to maintain the current definition of ''select carcinogens'' in the laboratory standard since the original purpose of the standard was to deviate from the HCS definition and narrow the scope of the standard. As noted in the preamble, the scope was set for ''select carcinogens'' based on the small, often minute, quantities of substances handled. OSHA stated its reasons for this deviation in the preamble to the final rule and those reasons remain persuasive

> This final rule, however, modifies the carcinogen definition and the obligatory action so that special provisions must be explicitly considered by the employer, but need only be implemented when the employer deems them appropriate on the basis of the specific conditions existing in his/her laboratory. Moreover, the term, ''carcinogen'' has been replaced by ''select carcinogen'' which covers a narrower range of substances * * * (55 FR 3315 Jan. 31, 1990)

OSHA is also proposing to change the name of the ''material safety data sheets'' for the substance specific standards to ''safety data sheets.'' As discussed above, this change is being proposed to reflect the GHS terminology.

Safety Standards

OSHA is proposing to modify safety standards that either directly reference the HCS or provide information pertinent to the Safety Data Sheets (SDSs), in particular regarding the storage and handling of chemicals. As noted above, some commenters supported standardizing physical hazard criteria across all applicable OSHA standards (Document ID #s 0104, 0105, 0034, 0155, 0170, and 0171). However, some other commenters, and even some who supported applying physical hazard criteria across all standards, raised concerns about storage and handling requirements; degree of impact; potential effects on the scope of the Process Safety Management (PSM) Standard; and potential conflicts with widely accepted consensus standards (Document ID #s 0104, 0038, 0077, and 0163). OSHA is addressing all of these concerns in this proposal. OSHA's proposed integration of the physical hazards criteria would:

- Incorporate the current HCS definitions of flammable liquid and gas into PSM and health hazard into Hazardous Waste Operations and Emergency Response (HAZWOPER);
- Change paragraphs on flammable and combustible liquids to conform in categories, terminology, flashpoints (FP) and boiling points (BP) to the GHS modifications to HCS;
- Update the acceptable methods for determining flashpoints;
- Modify the welding standard § 1910.252 requirements on labeling welding consumables to be consistent with GHS modifications to HCS; and
- Incorporate the modified-HCS definition of flammable aerosols into the Flammable and Combustible Liquids Standard § 1910.106 [35]; but
- Leave unchanged electrical standards in Subpart S for general industry and Subpart K for construction, and explosive standards § 1910.109 for general industry and § 1926.914 for construction.

OSHA agrees with the commenters who urged the Agency to ensure consistency in its standards while maintaining their scope (Document ID #s 0049, 0050, 0077, 0105, 0123, 0145, 0163, and 0170). Two standards, PSM and HAZWOPER, rely on definitions from the HCS to define their scope. If OSHA did not modify these standards during this rulemaking, there would be unintended coverage changes. For example, PSM covers processes that involve ''flammable liquids'' as currently defined by reference to the HCS which are limited to liquids with a flashpoint below 100 °F. However, the proposal incorporates the GHS definitions for physical hazards and defines flammable liquids as liquids with a flashpoint below 199.4 °F, potentially increasing the coverage of PSM by adding flammable liquids with flashpoints between 100 °F and 199.4 °F to the chemicals PSM already covers. Therefore, OSHA is proposing to change the PSM standard to define ''flammable liquid'' by the specific flashpoint set forth in the current HCS, rather than referencing HCS's definition of flammable liquid. Similarly for ''flammable gas,'' OSHA is proposing to change the definition to only include Category 1 flammable gas to maintain coverage of PSM. Therefore, OSHA would delete the reference to HCS for flammable liquid and insert the current definition in paragraph 1910.119(a)(1)(ii). The current PSM standard states:

> (ii) A process which involves a flammable liquid or gas (as defined in 1910.1200(c) of this part) on site in one location, in a quantity of 10,000 pounds (4535.9 kg) * * *

The new proposed paragraph would state:

> (ii) A process which involves a Category 1 flammable gas (as defined in 1910.1200 (c)) or flammable liquid with a flashpoint below 100 °F (37.8 °C) on site in one location, in a quantity of 10,000 pounds (4535.9 kg) * * *

[35] In § 1910.106 OSHA is also correcting a rounding error in the conversion from 12 feet to meters. The change is from 3.648 meters to 3.658 meters.

Likewise, OSHA is proposing to update the definition of health hazard in HAZWOPER 1910.120 so the terminology is aligned with the GHS health hazards in Appendix A. The new definition would read:

> Health hazard means a chemical or a pathogen where acute or chronic health effects may occur in exposed employees. It also includes stress due to temperature extremes. The term ''health hazard'' includes chemicals which are classified in accordance with the Hazard Communication standard, 29 CFR 1910.1200 as posing one of the following hazardous effects: Acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; target organ specific systemic toxicity (single or repeated dose); or aspiration toxicity. The criteria for determining whether a chemical is classified as a health hazard can be found in Appendix A to 29 CFR 1910.1200.

OSHA was concerned that some of the terminology in HAZWOPER, such as neurotoxin and nephrotoxin (see definitions in ''health hazard'') which are partly defined by reference to the HCS would no longer be consistent with the modified HCS. OSHA has not dropped these health hazards, but instead, consistent with the GHS modifications to HCS, such terms are recatagorized under specific target organ toxicity, thus maintaining the same requirements for hazard communication. If OSHA did not update the definition in HAZWOPER then employers would not have the proper guidance on how to classify a health hazard consistent with the GHS.

Flammable and Combustible Liquids

OSHA is proposing to align the definitions of flammable and combustible liquids to conform to the GHS modifications to HCS in categories, terminology, flashpoints, and boiling points, in the general industry, construction, and maritime standards. (See Table XV–3 for comparison of the current HCS definitions and the GHS flammable liquid definitions.) OSHA believes that most of the changes in the definitions are not significant. OSHA is proposing to make nominal changes to the flashpoint values for flammable and combustible liquids from 22.8 ° C to 23 °C and 93.3 °C to 93 °C to be consistent with the GHS modifications to HCS. OSHA believes these changes represent simple rounding to the closest significant value and that they will have no effect on the scope of its standards or safety, but will enable users to work in whole numbers, which OSHA believes will benefit affected employers and employees.

However, other changes are potentially significant. The boiling points used to define the threshold for the current Flammable Class IA will shift from the cut-point of 37.8 °C to a cut-point of 35 °C for Category 1 in the modified HCS. Flammable Class IA is currently defined as any liquid with a FP of greater than (>) 22.8 °C and a BP of less than (<) 37.8 °C; the new definition will adopt a BP of less than or equal to (≤) 35 ° C. Likewise, the BP will shift for the current definition of Flammable Class IB from equal to or greater than (≥) 37.8 °C to (>) 35 °C for Category 2. These changes are necessary to make OSHA standards internally consistent and consistent with the GHS modifications to HCS. However, OSHA is concerned that changing the boiling point cut-off for the highly flammable liquids currently classified as Flammable IA could, under the GHS modifications to HCS, lead to a subset of these chemicals being classified as GHS Category 2 Flammable Liquids. Since some of the storage and handling requirements are based on the hazard category, a facility could increase the size of its storage tanks for the liquids with boiling points between 37.8 °C and 35 °C. It is possible that increasing the size for these chemicals could decrease the safety of their storage. OSHA has reviewed the properties related to the flammability of approximately 900 chemical substances (754 liquids) listed in the *CRC Handbook of Chemistry and Physics* [85th edition]. Approximately 1 percent of this list of flammable liquids would result in a reclassification from the current Flammable and Combustible Liquids Standard Class IA to GHS Category 2. While this is a small percentage of the total flammable liquids, it represents approximately 15 percent of the current Flammable and Combustible Liquids Standard Class IA liquids on this list. This is an instance where the benefits of harmonization could be in conflict with the measure of safety currently provided.

How the storage and handling of chemicals would be affected by the changes in classification of chemicals generated significant comments to the ANPR. Some commenters urged the Agency to change criteria in the standards, but acknowledged that the storage and handling requirements for flammable liquids would present the most critical potential problems (Document ID #s 0072, 0102, 0179, 0034, 0145, and 0163). Other commenters were concerned that changing the definitions, including flammability criteria, would require facilities to modify their storage facilities to maintain compliance with § 1910.106, with some worried that storage receptacles would have to be smaller, leading to less storage and greater costs. For example, BASF wrote:

> The flammable and combustible liquid standard, 29 CFR 1910.106, includes definitions within the standard. Changing these to be consistent with the GHS definitions could require storage facilities to be modified or the amount of storage inventory limited, all of which impacts the cost of implementation. (Document ID # 0119)

OSHA disagrees with this statement. Because the GHS change from OSHA's flammable and combustible classes to GHS Categories involves a lowering of the boiling point cut-offs by 2.8 °C, all current handling and storage would be permitted. In addition, storage and handling of chemicals whose boiling points fall between 37.8 °C and 35 °C would be allowed to be stored according to the lesser flammability Category 2. Category 2 chemicals could be stored in larger containers but, as noted above, it is possible that safety could be compromised. OSHA is proposing the GHS changes to the safety standards because it believes safety will be enhanced by the standardization of the GHS modifications. However, OSHA is seeking comment on the resulting handling and storage of chemicals after the standards have incorporated GHS definitions, and the Agency has included this topic in Section II (Issues) of this preamble.

Table XV-3 Flammable Liquid definitions

GHS			Flammable and Combustible Liquids Standard (29 CFR 1910.106)		
Category	Flashpoint (ºC)	Boiling Point (ºC)	Class	Flashpoint (ºC)	Boiling Point (ºC)
Flammable 1	< 23	≤ 35	Flammable Class IA	< 22.8	< 37.8
Flammable 2	< 23	> 35	Flammable Class IB	< 22.8	≥ 37.8
Flammable 3	≥ 23 and ≤ 60		Flammable Class IC Combustible Class II	≥ 22.8 and < 37.8 ≥ 37.8 and < 60	
Flammable 4	> 60 and ≤93		Combustible Class IIIA	≥ 60 and <93.3	
None			Combustible Class IIIB	≥ 93.3	

OSHA is also proposing to adopt the terminology in the GHS modifications to HCS so that all liquids covered by § 1910.106 will be redefined as flammable liquids in Categories 1–4, as appropriate, and the term ''Combustible Liquids'' in §§ 1910.106, 1910.107, 1910.123, 1910.125, 1926.152, and 1926.155 will be deleted. Instead of using the term Combustible Class IIIB, flammable liquids with a flashpoint of ≥ 93 °C will be called ''Flammable Liquids with a Flashpoint of > 93 °C.'' The GHS does not classify flammable liquids with flashpoints > 93 °C and, in fact, does not use the term combustible liquid for classification. However, other OSHA standards, such as § 1910.107, Spray Finishing Using Flammable and Combustible Materials, relying on the current § 1910.106 definitions of flammable and combustible liquids, which cover liquids with a flashpoint over 93 °C as ''combustible liquids.'' OSHA believes it needs to maintain this non-GHS category in order to preserve the coverage of combustibles in standards such as Spray Finishing. However, these chemicals will be known by the new term ''Flammable Liquids with a Flashpoint of Greater Than 93°C,'' which means that protection provided by the current standards remains in force.

Updating the Method To Determine Flashpoint

Currently, OSHA references only ASTM D–56–70 or ASTM D–93–71 for testing methods to determine flashpoints for liquids and these are the only methods allowed. However, these methods, which were developed in 1970 and 1971, have been updated and are incompatible with GHS. To remedy this situation, OSHA is proposing to reference the methods set forth in the GHS that can be used to determine flashpoints. These methods include updated ASTM methods, ISO methods, as well as British, French, and German national standards for the testing. A complete list of methods is in the *Globally Harmonized System of Classification and Labelling of Chemicals (GHS)* (second revision, 2007). OSHA is seeking comment on this approach, and the Agency has included this topic in Section II (Issues) of this preamble.

Welding, Cutting and Brazing

OSHA is proposing to modify the labeling requirements for welding consumables in the Welding, Cutting and Brazing Standard, paragraphs 1910.252(c)(iv)(A), (B), and (C). These paragraphs contain the labeling requirements for filler metals, fusible granular materials and fluxes. The standard sets forth the responsibility for labeling in paragraph 1910.252(c)(iv):

The suppliers of welding materials shall determine the hazard, if any associated with the use of their materials in welding, cutting, *etc.*

Similar to the substance-specific health standards, OSHA is proposing to require these labels to be consistent with the GHS modifications to HCS.

Flammable Aerosols

OSHA is proposing to harmonize its existing standards with the GHS modifications to HCS on flammable aerosols. Currently OSHA references CPSC regulations for its definition of flammable aerosol. The current HCS definition is:

''Aerosol, flammable'' means an aerosol that, when tested by the method described in 16 CFR 1500.45, yields a flame projection exceeding 18 inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening.

OSHA defines and regulates flammable aerosols in its Flammable and Combustible Liquids standard at 29 CFR 1910.106. The definitions there are:

Aerosol shall mean a material which is dispensed from its container as a mist, spray, or foam by a propellant under pressure. § 1910.106(a)(1).

Flammable aerosol shall mean an aerosol which is required to be labeled ''Flammable'' under the Federal Hazardous Substances Labeling Act (15 U.S.C. 1261). For the purposes of paragraph (d) of this section, such aerosols are considered Class IA liquids. § 1910.106(a)(13).

Appendix B.3 of GHS modifications to HCS begins its definition with what an aerosol is:

* * * any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, and fitted with a release device allowing the contents to be ejected as particles in suspension in a gas, or as a foam, paste, powder, liquid or gas. (Appendix B)

Aerosols are then further classified into one of two categories if it contains a flammable liquid, gas or solid (Appendix B.3.2.1).

OSHA's decision to change the definition of aerosols to be consistent with the GHS is based not only upon harmonizing its own standards with those followed by other countries who have or are considering adopting GHS, but also with making OSHA standards internally consistent. OSHA believes that the classification resulting from the various methods are similar enough that

all aerosols currently regulated by OSHA would continue to be so and that few, if any, new aerosols would be subject to OSHA regulation. Thus, OSHA is proposing to remove the current definitions from its Flammable and Combustible Liquids standards and insert its GHS consistent definitions along with references to Appendix B.3 of the HCS. While the Agency believes the effect of these changes will be minimal, it nevertheless seeks comment on this change which will primarily affect the Flammable and Combustible Liquids standards.

Standards Not Included in This Rulemaking

At this time, OSHA is not proposing to change standards that incorporate by reference other consensus standards, such as NFPA codes, or are based on consensus standards when those consensus standards are used for internal design criteria only and do not reference HCS for applicable scope or incorporation into the SDS. These standards would include subpart S—Electrical in part 1910 (General industry) and Subpart K—Electrical in part 1926 (Construction). Many commenters were particularly concerned that a change in OSHA's definitions would create an incompatibility with local building codes (Document ID #s 0047, 0075, 0076, 0104, 0113, 0145 and 0163). In many cases, this would require extensive rewiring to meet the subpart S requirements on hazardous locations and would lead to conflicts with local electrical codes.

In addition OSHA is not proposing to update standards that pertain to explosives at this time. A separate rulemaking to revise the Explosive and Blasting Agents standard § 1910.109 is currently in progress.

XVI. References

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XVII. Authority and Signature

This document was prepared under the direction of Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued under the authority of sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); 5 U.S.C. 553; Section 304, Clean Air Act Amendments of 1990 (Pub. L. 101–549, reprinted at 29 U.S.C.A. 655 Note); Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Section 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 3704); Section 1031, Housing and Community Development Act of 1992 (42 U.S.C. 4853); Section 126, Superfund Amendments and Reauthorization Act of 1986, as amended (reprinted at 29 U.S.C.A. 655 Note); Secretary of Labor's Order No. 5–2007 (72 FR 31160); and 29 CFR part 1911.

Signed at Washington, DC, this 10th day of September 2009.

Jordan Barab,

Acting Assistant Secretary of Labor.

XVIII. Proposed Amendments

List of Subjects

29 CFR Part 1910

Asbestos, Blood, Chemicals, Diving, Fire prevention, Gases, Hazard communication, Hazardous substances, Health records, Labeling, Labels, Laboratories, Occupational safety and health, Reporting and recordkeeping requirements, Safety data sheets, Signs and symbols, and Training.

29 CFR Part 1915

Hazard communication, Hazardous substances, Labels, Longshore and harbor workers, Occupational safety and health, Reporting and recordkeeping requirements, Safety data sheets, Signs and symbols, Training, and Vessels.

29 CFR Part 1926

Chemicals, Construction industry, Diving, Fire prevention, Gases, Hazard communication, Hazardous substances, Health records, Labels, Lead, Occupational safety and health, Reporting and recordkeeping requirements, Safety data sheets, Signs and symbols, and Training.

For the reasons discussed in the preamble, the Occupational Safety and Health Administration proposes to amend 29 CFR parts 1910, 1915 and 1926 as set forth below:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS [AMENDED]

Subpart A—[Amended]

1. The authority citation for subpart A of part 1910 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31159), as applicable.

Section 1910.6 also issued under 5 U.S.C. 553. Sections 1910.6, 1910.7, and 1910.8 also issued under 29 CFR Part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Pub. L. 106–113 (113 Stat. 1501A–222); and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

2. Amend § 1910.6 by adding new paragraphs (h)(22) through (h)(28), (q)(36), (x), and (y) to read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(h) * * *

(22) ASTM D 56–93, Standard Test Method for Flash Point by Tag Closed Cup Tester, IBR approved for Appendix B to § 1910.1200, (see B.6).

(23) ASTM D 3278–96, Standard Test Method for Flash Point of Liquids by Small Scale Closed-Cup Apparatus, IBR approved for Appendix B to § 1910.1200.

(24) ASTM D 3828–93 Standard Test Method for Flash Point by Small Scale Closed Cup Tester, IBR approved for Appendix B to § 1910.1200,.

(25) ASTM D 93–96, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester, IBR approved for Appendix B to § 1910.1200.

(26) ASTM D 240–2007 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, IBR approved for Appendix B to § 1910.1200.

(27) ASTM D 86–07a Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure, IBR approved for Appendix B to § 1910.1200.

(28) ASTM D 1078–05 Standard Test Method for Distillation Range of Volatile Organic Liquids, IBR approved for Appendix B to § 1910.1200.

* * * * *

(q) * * *

(36) NFPA 30B–2006 Code for the Manufacture and Storage of Aerosol

Products, IBR approved for Appendix B to § 1910.1200.

* * * * *

(x) The following material is available for purchase from the International Standards Organization (ISO) through ANSI, 25 West 43rd Street, Fourth Floor New York, NY 10036–7417.

(1) ISO 10156–1996; ''Gases and Gas Mixtures—Determination of Fire Potential and Oxidizing Ability for the Selection of Cylinder Valve Outlets,'' IBR approved for Appendix B to § 1910.1200.

(2) EN/ISO 13943–2000, 86.1 to 86.3—Fire Safety—Vocabulary, IBR approved for Appendix B to § 1910.1200

(3) ISO 10156–2–2005 ''Gas cylinders—Gases and Gas Mixtures—Part 2: Determination of Oxidizing Ability of Toxic and Corrosive Gases and Gas Mixtures,'' IBR approved for Appendix B to § 1910.1200.

* * * * *

(y) The following document is available for purchase from United Nations Publications, 2 United Nations Plaza, Room DC2–853, New York, NY 10017, USA.

(1) The UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Edition, 2003, IBR approved for Appendix B to § 1910.1200.

(2) [Reserved]

(z) The following is available from Verein Deutscher Ingeniere (VDI)(Association of German Engineers). The guidelines can be ordered at: Beuth Verlag GmbH, 10772 Berlin.

(1) The Grewer Oven test (VDI guideline 2263, part 1, 1990, Test methods for the Determination of the Safety Characteristics of Dusts) with an onset temperature 80 °K (176 °F) above the reference temperature for a volume of 1 l, IBR approved for Appendix B to § 1910.1200, (see B.11).

(2) [Reserved]

(aa) The following journal article can be obtained on-line though Wiley InterScience, at Journal Customer Services, John Wiley & Sons, Inc., 350 Main Street, Malden, MA 02148.

(1) The Bulk Powder Screening Test (Gibson, N. Harper, D. J. Rogers, R. Evaluation of the fire and explosion risks in drying powders, *Plant Operations Progress,* 4 (3), 181–189, 1985) (Copyright 1992 American Institute of Chemical Engineers) with an onset temperature 60°K (140°F) above the reference temperature for a volume of 1 l, IBR approved for Appendix B to § 1910.1200, (see B.11).

(2) [Reserved]

Subpart H—[Amended]

3. The authority citation for subpart H is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), or 5–2007 (72 FR 31159), as applicable; and 29 CFR part 1911.

Sections 1910.103, 1910.106 through 1910.111, and 1910.119, 1910.120, and 1910.122 through 1910.126 also issued under 29 CFR part 1911.

Section 1910.119 also issued under Section 304, Clean Air Act Amendments of 1990 (Pub. L. 101–549), reprinted at 29 U.S.C. 655 NOTE. Section 1910.120 also issued under Section 126, Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 Note), and 5 U.S.C. 553.

4. Amend § 1910.106 as follows:

A. Revise the section heading;

B. Revise paragraphs (a)(13); (a)(14)(i) through (a)(14)(iii) and (a)(19);

C. Remove the last sentence of paragraph (a)(17);

D. Remove and reserve paragraph (a)(18);

E. Remove the words ''or combustible'' wherever it appears.

F. Remove the words ''and combustible'' in paragraphs (d)(5)(vi) introductory text, (e)(2) introductory text, (j)(1) and (j)(3);

G. Revise paragraphs (b)(2)(iv)(*f*) and (g), (b)(2)(vi)(*b*), (b)(2)(viii)(*e*), (b)(3)(i), (b)(3)(iv)(*a*), (b)(3)(iv)(*c*), (b)(3)(v)(*d*), (b)(4)(iv)(*e*), (d)(1)(ii)(*b*), (d)(2)(iii) and (d)(2)(iii)(*a*)(*2*), (d)(3)(i), (d)(4)(iii), (d)(4)(iv), (d)(7)(i)(*b*), (e)(2), (e)(2)(ii)(*b*)(*1*), (e)(2)(ii)(*b*)(*2*), (e)(2)(ii)(*b*)(*3*), (e)(2)(iv)(*a*), (e)(2)(iv)(*c*), (e)(3)(v)(*a*), (e)(3)(v)(*b*), (e)(4)(i), (e)(6)(ii), (e)(7)(i)(*c*), (f)(1)(i), (f)(1)(ii), (f)(2)(ii), (f)(2)(iii)(*a*), (f)(2)(iii)(*b*), (f)(2)(iii)(*c*), (f)(3)(i), (f)(3)(ii), (f)(3)(iv)(*a*)(*1*), (f)(3)(iv)(*a*)(*2*), (f)(3)(iv)(*d*)(*2*), (f)(3)(v), (f)(3)(vi), (f)(4)(viii)(*e*), (f)(5)(i), (f)(6), (f)(8), (g)(1)(i)(*c*), (g)(1)(i)(*e*), (g)(1)(i)(*f*), (g)(1)(iii)(*a*), (g)(1)(iii)(*b*), (g)(1)(iii)(*c*), (g)(1)(v), (g)(3)(iv)(*a*), (g)(3)(iv)(*b*)(*1*), (g)(3)(iv)(*b*)(*2*), (g)(3)(iv)(*c*), (g)(3)(v)(*a*), (g)(3)(vi)(*a*), (g)(4)(iii)(*d*), (g)(5)(i), (g)(6)(iv), (g)(7), (h)(3)(i)(*a*), (h)(3)(iii)(*b*), (h)(3)(iv), (h)(5), (h)(7)(i)(*b*), (h)(7)(iii)(*c*), (j), and Tables H–12, H–14 through H–17, and H–19;

The revisions read as follows:

§ 1910.106 Flammable liquids.

* * * * *

(a) * * *

(13) Flammable aerosol shall mean a flammable aerosol as defined by Appendix B to § 1910.1200—Physical Hazard Criteria. For the purposes of paragraph (d) of this section, such aerosols are considered Category 1 flammable liquids.

(14) * * *

(i) For a liquid which has a viscosity of less than 45 SUS at 100 °F (37.8 °C), does not contain suspended solids, and does not have a tendency to form a surface film while under test, the procedure specified in the Standard Method of Test for Flashpoint by Tag Closed Tester (ASTM D–56–70), which is incorporated by reference as specified in Sec. 1910.6, shall be used or an equivalent test method as defined in Appendix B to § 1910.1200—Physical Hazard Criteria.

(ii) For a liquid which has a viscosity of 45 SUS or more at 100 °F (37.8 °C), or contains suspended solids, or has a tendency to form a surface film while under test, the Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester (ASTM D–93–71) shall be used or an equivalent method as defined by Appendix B to § 1910.1200—Physical Hazard Criteria, except that the methods specified in Note 1 to section 1.1 of ASTM D–93–71 may be used for the respective materials specified in the NOTE: The preceding ASTM standards are incorporated by reference as specified in § 1910.6.

(iii) For a liquid that is a mixture of compounds that have different volatilities and flashpoints, its flashpoint shall be determined by using the procedure specified in paragraph (a)(14)(i) or (ii) of this section on the liquid in the form it is shipped.

* * * * *

(18) [Reserved]

(19) *Flammable liquid* means any liquid having a flashpoint at or below 199.4 °F (93 °C). Flammable liquids are divided into four categories as follows:

(i) Category 1 shall include liquids having flashpoints below 73.4 °F (23 °C) and having a boiling point at or below 95 °F (35 °C).

(ii) Category 2 shall include liquids having flashpoints below 73.4 °F (23 °C) and having a boiling point above 95 °F (35 °C).

(iii) Category 3 shall include liquids having flashpoints at or above 73.4 °F (23 °C) and at or below 140 °F (60 °C). When a Category 3 liquid with a flashpoint at or above 100 °F (37.8 °C) is heated for use to within 30 °F (16.7 °C) of its flashpoint, it shall be handled in accordance with the requirements for a Category 3 liquid with a flashpoint below 100 °F (37.8 °C).

(iv) Category 4 shall include liquids having flashpoints above 140 °F (60 °C) and at or below 199.4 °F (93 °C). When a Category 4 flammable liquid is heated

for use to within 30 °F (16.7 °C) of its flashpoint, it shall be handled in accordance with the requirements for a Category 3 liquid with a flashpoint at or above 100 °F (37.8 °C).

(v) When liquid with a flashpoint greater than 199.4 °F (93 °C) is heated for use to within 30 °F (16.7 °C) of its flashpoint, it shall be handled in accordance with the requirements for a Category 4 flammable liquid.

* * * * *

(b) * * *

(2) * * *

(iv) * * *

(*f*) Tanks and pressure vessels storing Category 1 flammable liquids shall be equipped with venting devices which shall be normally closed except when venting to pressure or vacuum conditions. Tanks and pressure vessels storing Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C) shall be equipped with venting devices which shall be normally closed except when venting under pressure or vacuum conditions, or with approved flame arresters.

Exemption: Tanks of 3,000 bbls. capacity or less containing crude petroleum in crude-producing areas; and, outside aboveground atmospheric tanks under 1,000 gallons capacity containing other than Category 1 flammable liquids may have open vents. (See paragraph (vi) (*b*) of this section.)

(*g*) Flame arresters or venting devices required in paragraph (*f*) of this section may be omitted for Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C) where conditions are such that their use may, in case of obstruction, result in tank damage.

* * * * *

(vi) * * *

(b) Where vent pipe outlets for tanks storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are adjacent to buildings or public ways, they shall be located so that the vapors are released at a safe point outside of buildings and not less than 12 feet above the adjacent ground level. In order to aid their dispersion, vapors shall be discharged upward or horizontally away from closely adjacent walls. Vent outlets shall be located so that flammable vapors will not be trapped by eaves or other obstructions and shall be at least five feet from building openings.

* * * * *

(viii) * * *

(e) For Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), other than crude oils, gasolines, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity. A fill pipe entering the top of a tank shall terminate within 6 inches of the bottom of the tank and shall be installed to avoid excessive vibration.

* * * * *

(3) * * *

(i) *Location.* Excavation for underground storage tanks shall be made with due care to avoid undermining of foundations of existing structures. Underground tanks or tanks under buildings shall be so located with respect to existing building foundations and supports that the loads carried by the latter cannot be transmitted to the tank. The distance from any part of a tank storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), to the nearest wall of any basement or pit shall be not less than 1 foot, and to any property line that may be built upon, not less than 3 feet. The distance from any part of a tank storing Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids to the nearest wall of any basement, pit or property line shall be not less than 1 foot.

* * * * *

(iv) * * *

(*a*) Location and arrangement of vents for Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C). Vent pipes from tanks storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be so located that the discharge point is outside of buildings, higher than the fill pipe opening, and not less than 12 feet above the adjacent ground level. Vent pipes shall discharge only upward in order to disperse vapors. Vent pipes 2 inches or less in nominal inside diameter shall not be obstructed by devices that will cause excessive back pressure. Vent pipe outlets shall be so located that flammable vapors will not enter building openings, or be trapped under eaves or other obstructions. If the vent pipe is less than 10 feet in length, or greater than 2 inches in nominal inside diameter, the outlet shall be provided with a vacuum and pressure relief device or there shall be an approved flame arrester located in the vent line at the outlet or within the approved distance from the outlet.

* * * * *

(*c*) Location and arrangement of vents for Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids. Vent pipes from tanks storing Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids shall terminate outside of the building and higher than the fill pipe opening. Vent outlets shall be above normal snow level. They may be fitted with return bends, coarse screens or other devices to minimize ingress of foreign material.

* * * * *

(v) * * *

(*d*) For Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), other than crude oils, gasolines, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity by terminating within 6 inches of the bottom of the tank.

* * * * *

(4) * * *

(iv) * * *

(*e*) For Category 2 flammable liquids and Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), other than crude oils, gasoline, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity by terminating within 6 inches of the bottom of the tank.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(*b*) Category 1, 2, or 3 flammable liquids in the fuel tanks of a motor vehicle, aircraft, boat, or portable or stationary engine;

* * * * *

(2) * * *

(iii) *Size.* Flammable liquid containers shall be in accordance with Table H–12, except that glass or plastic containers of no more than 1-gallon capacity may be used for a Category 1 or 2 flammable liquid if:

(*a*) * * *

(*2*) The user's process either would require more than 1 pint of a Category 1 flammable liquid or more than 1 quart of a Category 2 flammable liquid of a single assay lot to be used at one time, or would require the maintenance of an analytical standard liquid of a quality which is not met by the specified standards of liquids available, and the quantity of the analytical standard liquid required to be used in any one control process exceeds one-sixteenth the capacity of the container allowed under Table H–12 for the category of liquid; or

* * * * *

(3) * * *

(i) *Maximum capacity.* Not more than 60 gallons of Category 1, 2, or 3 flammable liquids, nor more than 120 gallons of Category 4 flammable liquids may be stored in a storage cabinet.

* * * * *

(4) * * *

(iii) *Wiring.* Electrical wiring and equipment located in inside storage rooms used for Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be approved under subpart S of this part for Class I, Division 2 Hazardous Locations; for Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) and Category 4 flammable liquids, shall be approved for general use.

(iv) *Ventilation.* Every inside storage room shall be provided with either a gravity or a mechanical exhaust ventilation system. Such system shall be designed to provide for a complete change of air within the room at least six times per hour. If a mechanical exhaust system is used, it shall be controlled by a switch located outside of the door. The ventilating equipment and any lighting fixtures shall be operated by the same switch. A pilot light shall be installed adjacent to the switch if Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are dispensed within the room. Where gravity ventilation is provided, the fresh air intake, as well as the exhaust outlet from the room, shall be on the exterior of the building in which the room is located.

* * * * *

(7) * * *

(i) * * *

(*b*) At least one portable fire extinguisher having a rating of not less than 12–B units must be located not less than 10 feet, nor more than 25 feet, from any Category 1, 2, or 3 flammable liquid storage area located outside of a storage room but inside a building.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(*b*) * * *

(*1*) 25 gallons of Category 1 flammable liquids in containers

(*2*) 120 gallons of Category 2, 3, or 4 flammable liquids in containers

(*3*) 660 gallons of Category 2, 3, or 4 flammable liquids in a single portable tank.

* * * * *

(iv) * * *

(*a*) Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be kept in covered containers when not actually in use.

* * * * *

(*c*) Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), may be used only where there are no open flames or other sources of ignition within the possible path of vapor travel.

* * * * *

(3) * * *

(v) * * *

(*a*) Areas as defined in paragraph (e)(3)(i) of this section using Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be ventilated at a rate of not less than 1 cubic foot per minute per square foot of solid floor area. This shall be accomplished by natural or mechanical ventilation with discharge or exhaust to a safe location outside of the building. Provision shall be made for introduction of makeup air in such a manner as not to short circuit the ventilation. Ventilation shall be arranged to include all floor areas or pits where flammable vapors may collect.

(*b*) Equipment used in a building and the ventilation of the building shall be designed so as to limit flammable vapor-air mixtures under normal operating conditions to the interior of equipment, and to not more than 5 feet from equipment which exposes Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), to the air. Examples of such equipment are dispensing stations, open centrifuges, plate and frame filters, open vacuum filters, and surfaces of open equipment.

* * * * *

(4) * * *

(i) Tank vehicle and tank car loading or unloading facilities shall be separated from aboveground tanks, warehouses, other plant buildings or nearest line of adjoining property which may be built upon by a distance of 25 feet for Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), and 15 feet for Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) and Category 4 flammable liquids measured from the nearest position of any fill stem. Buildings for pumps or shelters for personnel may be a part of the facility. Operations of the facility shall comply with the appropriate portions of paragraph (f)(3) of this section.

* * * * *

(6) * * *

(ii) *Grounding.* Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall not be dispensed into containers unless the nozzle and container are electrically interconnected. Where the metallic floorplate on which the container stands while filling is electrically connected to the fill stem or where the fill stem is bonded to the container during filling operations by means of a bond wire, the provisions of this section shall be deemed to have been complied with.

(7) * * *

(i) * * *

(*c*) Locations where flammable vapor-air mixtures may exist under abnormal conditions and for a distance beyond Division 1 locations shall be classified Division 2 according to the requirements of subpart S of this part. These locations include an area within 20 feet horizontally, 3 feet vertically beyond a Division 1 area, and up to 3 feet above floor or grade level within 25 feet, if indoors, or 10 feet if outdoors, from any pump, bleeder, withdrawal fitting, meter, or similar device handling Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C). Pits provided with adequate mechanical ventilation within a Division 1 or 2 area shall be classified Division 2. If Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids only are handled, then ordinary electrical equipment is satisfactory though care shall be used in locating electrical apparatus to prevent hot metal from falling into open equipment.

* * * * *

(f) * * *

(1) * * *

(i) *Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C).* Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be stored in closed containers, or in storage tanks above ground outside of buildings, or underground in accordance with paragraph (b) of this section.

(ii) *Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) and Category 4 flammable liquids.* Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) and Category 4 flammable liquids shall be stored in containers, or in tanks within buildings or above ground outside of buildings, or underground in

accordance with paragraph (b) of this section.

* * * * *

(2) * * *

(ii) *Heating.* Rooms in which Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are stored or handled shall be heated only by means not constituting a source of ignition, such as steam or hot water. Rooms containing heating appliances involving sources of ignition shall be located and arranged to prevent entry of flammable vapors.

(iii) * * *

(*a*) Ventilation shall be provided for all rooms, buildings, or enclosures in which Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are pumped or dispensed. Design of ventilation systems shall take into account the relatively high specific gravity of the vapors. Ventilation may be provided by adequate openings in outside walls at floor level unobstructed except by louvers or coarse screens. Where natural ventilation is inadequate, mechanical ventilation shall be provided.

(*b*) Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall not be stored or handled within a building having a basement or pit into which flammable vapors may travel, unless such area is provided with ventilation designed to prevent the accumulation of flammable vapors therein.

(*c*) Containers of Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall not be drawn from or filled within buildings unless provision is made to prevent the accumulation of flammable vapors in hazardous concentrations. Where mechanical ventilation is required, it shall be kept in operation while flammable liquids with a flashpoint below 100 °F (37.8 °C) are being handled.

(3) * * *

(i) *Separation.* Tank vehicle and tank car loading or unloading facilities shall be separated from aboveground tanks, warehouses, other plant buildings or nearest line of adjoining property that may be built upon by a distance of 25 feet for Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), and 15 feet for Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) and Category 4 flammable liquids measured from the nearest position of any fill spout. Buildings for pumps or shelters for personnel may be a part of the facility.

(ii) *Category restriction.* Equipment such as piping, pumps, and meters used for the transfer of Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), between storage tanks and the fill stem of the loading rack shall not be used for the transfer of Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids.

* * * * *

(iv) * * *

(*a*) * * *

(*1*) Where Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are loaded, or

(*2*) Where Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids are loaded into vehicles which may contain vapors from previous cargoes of Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C).

* * * * *

(*d*) * * *

(*2*) Where no Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are handled at the loading facility and the tank vehicles loaded are used exclusively for Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) and Category 4 flammable liquids; and

* * * * *

(v) *Stray currents.* Tank car loading facilities where Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C) are loaded through open domes shall be protected against stray currents by bonding the pipe to at least one rail and to the rack structure if of metal. Multiple lines entering the rack area shall be electrically bonded together. In addition, in areas where excessive stray currents are known to exist, all pipe entering the rack area shall be provided with insulating sections to electrically isolate the rack piping from the pipelines. No bonding between the tank car and the rack or piping is required during either loading or unloading of Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids.

(vi) *Container filling facilities.* Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall not be dispensed into containers unless the nozzle and container are electrically interconnected. Where the metallic floorplate on which the container stands while filling is electrically connected to the fill stem or where the fill stem is bonded to the container during filling operations by means of a bond wire, the provisions of this section shall be deemed to have been complied with.

(4) * * *

(viii) * * *

(*e*) In addition to the requirements of paragraph (f)(4)(viii)(*d*) of this section, each line conveying Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), leading to a wharf shall be provided with a readily accessible block valve located on shore near the approach to the wharf and outside of any diked area. Where more than one line is involved, the valves shall be grouped in one location.

* * * * *

(5) * * *

(i) *Application.* This paragraph (f)(5)(i) shall apply to areas where Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are stored or handled. For areas where Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids only are stored or handled, the electrical equipment may be installed in accordance with the provisions of Subpart S of this part, for ordinary locations.

* * * * *

(6) *Sources of ignition.* Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall not be handled, drawn, or dispensed where flammable vapors may reach a source of ignition. Smoking shall be prohibited except in designated localities. ''No Smoking'' signs shall be conspicuously posted where hazard from flammable liquid vapors is normally present.

* * * * *

(8) *Fire control.* Suitable fire-control devices, such as small hose or portable fire extinguishers, shall be available to locations where fires are likely to occur. Additional fire-control equipment may be required where a tank of more than 50,000 gallons individual capacity contains Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), and where an unusual exposure hazard exists from surrounding property. Such additional fire-control equipment shall be sufficient to extinguish a fire in the largest tank. The design and amount of

such equipment shall be in accordance with approved engineering standards.

* * * * *

(g) * * *

(1) * * *

(i) * * *

(*c*) Apparatus dispensing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), into the fuel tanks of motor vehicles of the public shall not be located at a bulk plant unless separated by a fence or similar barrier from the area in which bulk operations are conducted.

* * * * *

(*e*) The provisions of paragraph (g)(1)(i)(*a*) of this section shall not prohibit the dispensing of flammable liquids with a flashpoint below 100 °F (37.8 °C) in the open from a tank vehicle to a motor vehicle. Such dispensing shall be permitted provided:

* * * * *

(*f*) Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall not be stored or handled within a building having a basement or pit into which flammable vapors may travel, unless such area is provided with ventilation designed to prevent the accumulation of flammable vapors therein.

* * * * *

(iii) * * *

(*a*) Except where stored in tanks as provided in paragraph (g)(1)(ii) of this section, no Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be stored within any service station building except in closed containers of aggregate capacity not exceeding 60 gallons. One container not exceeding 60 gallons capacity equipped with an approved pump is permitted.

(*b*) Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), may be transferred from one container to another in lubrication or service rooms of a service station building provided the electrical installation complies with Table H–19 and provided that any heating equipment complies with paragraph (g)(6) of this section.

(*c*) Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) and Category 4 flammable liquids may be stored and dispensed inside service station buildings from tanks of not more than 120 gallons capacity each.

* * * * *

(v) *Dispensing into portable containers.* No delivery of any Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be made into portable containers unless the container is constructed of metal, has a tight closure with screwed or spring cover, and is fitted with a spout or so designed so the contents can be poured without spilling.

* * * * *

(3) * * *

(iv) * * *

(*a*) Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be transferred from tanks by means of fixed pumps so designed and equipped as to allow control of the flow and to prevent leakage or accidental discharge.

(*b*)(*1*) Only listed devices may be used for dispensing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C). No such device may be used if it shows evidence of having been dismantled.

(*2*) Every dispensing device for Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), installed after December 31, 1978, shall contain evidence of listing so placed that any attempt to dismantle the device will result in damage to such evidence, visible without disassembly or dismounting of the nozzle.

(*c*) Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall not be dispensed by pressure from drums, barrels, and similar containers. Approved pumps taking suction through the top of the container or approved self-closing faucets shall be used.

* * * * *

(v) * * *

(*a*) This paragraph (g)(3)(v) shall apply to systems for dispensing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), where such liquids are transferred from storage to individual or multiple dispensing units by pumps located elsewhere than at the dispensing units.

* * * * *

(vi) * * *

(*a*) A listed manual or automatic-closing type hose nozzle valve shall be provided on dispensers used for the dispensing of Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C).

* * * * *

(4) * * *

(iii) * * *

(a) * * *

* * * * *

(*d*) Piping handling Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be grounded to control stray currents.

(5) * * *

(i) *Application.* This paragraph (g)(5) shall apply to areas where Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are stored or handled. For areas where Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids are stored or handled the electrical equipment may be installed in accordance with the provisions of subpart S of this part, for ordinary locations.

* * * * *

(6) * * *

(iv) *Work areas.* Heating equipment using gas or oil fuel may be installed in the lubrication, sales, or service room where there is no dispensing or transferring of Cagetory 1 or 2 flammable liquids or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), provided the bottom of the combustion chamber is at least 18 inches above the floor and the heating equipment is protected from physical damage by vehicles. Heating equipment using gas or oil fuel listed for use in garages may be installed in the lubrication or service room where Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are dispensed provided the equipment is installed at least 8 feet above the floor.

* * * * *

(7) *Drainage and waste disposal.* Provision shall be made in the area where Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are dispensed to prevent spilled liquids from flowing into the interior of service station buildings. Such provision may be by grading driveways, raising door sills, or other equally effective means. Crankcase drainings and flammable liquids shall not be dumped into sewers but shall be stored in tanks or drums outside of any building until removed from the premises.

* * * * *

(h) * * *

(3) * * *

(i) * * *

(*a*) Processing buildings shall be of fire-resistance or noncombustible construction, except heavy timber construction with load-bearing walls may be permitted for plants utilizing only stable Category 3 flammable liquids with a flashpoint at or above 100

°F (37.8 °C) or Category 4 flammable liquids. Except as provided in paragraph (h)(2)(ii) of this section or in the case of explosion resistant walls used in conjunction with explosion relieving facilities, see paragraph (h)(3)(iv) of this section, load-bearing walls are prohibited. Buildings shall be without basements or covered pits.

* * * * *

(iii) * * *

(*b*) Equipment used in a building and the ventilation of the building shall be designed so as to limit flammable vapor-air mixtures under normal operating conditions to the interior of equipment, and to not more than 5 feet from equipment which exposes Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), to the air. Examples of such equipment are dispensing stations, open centrifuges, plate and frame filters, open vacuum filters, and surfaces of open equipment.

(iv) *Explosion relief.* Areas where Category 1 or unstable liquids are processed shall have explosion venting through one or more of the following methods:

* * * * *

(5) *Tank vehicle and tank car loading and unloading.* Tank vehicle and tank car loading or unloading facilities shall be separated from aboveground tanks, warehouses, other plant buildings, or nearest line of adjoining property which may be built upon by a distance of 25 feet for Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), and 15 feet for Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) and Category 4 flammable liquids measured from the nearest position of any fill stem. Buildings for pumps or shelters for personnel may be a part of the facility. Operations of the facility shall comply with the appropriate portions of paragraph (f)(3) of this section.

* * * * *

(7) * * *

(i) * * *

(*b*) Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall not be dispensed into containers unless the nozzle and container are electrically interconnected. Where the metallic floorplate on which the container stands while filling is electrically connected to the fill stem or where the fill stem is bonded to the container during filling operations by means of a bond wire, the provisions of this section shall be deemed to have been complied with.

* * * * *

(iii) * * *

(*c*) Locations where flammable vapor-air mixtures may exist under abnormal conditions and for a distance beyond Division 1 locations shall be classified Division 2 according to the requirements of subpart S of this part. These locations include an area within 20 feet horizontally, 3 feet vertically beyond a Division 1 area, and up to 3 feet above floor or grade level within 25 feet, if indoors, or 10 feet if outdoors, from any pump, bleeder, withdrawal fitting, meter, or similar device handling Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C). Pits provided with adequate mechanical ventilation within a Division 1 or 2 area shall be classified Division 2. If Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids only are handled, then ordinary electrical equipment is satisfactory though care shall be used in locating electrical apparatus to prevent hot metal from falling into open equipment.

* * * * *

(j) *Scope.* This section applies to the handling, storage, and use of flammable liquids with a flashpoint below 199.4 °F (93 °C) unless otherwise noted. This section does not apply to:

* * * * *

TABLE H–12—MAXIMUM ALLOWABLE SIZE OF CONTAINERS AND PORTABLE TANKS FOR FLAMMABLE LIQUIDS

Container type	Category 1	Category 2	Category 3	Category 4
Glass or approved plastic	1 pt	1 qt	1 gal	1 gal.
Metal (other than DOT drums)	1 gal	5 gal	5 gal	5 gal.
Safety cans	2 gal	5 gal	5 gal	5 gal.
Metal drums (DOT specifications)	60 gal	60 gal	60 gal	60 gal.
Approved portable tanks	660 gal	660 gal	660 gal	660 gal.

Note: Container exemptions: [a] Medicines, beverages, foodstuffs, cosmetics, and other common consumer items, when packaged according to commonly accepted practices, shall be exempt from the requirements of 1910.106(d)(2)(i) and (ii).

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TABLE H-14 - INDOOR CONTAINER STORAGE

Category liquid	Storage level	Gallons	
		Protected storage maximum per pile	Unprotected storage maximum per pile
1	Ground and upper floors.....	2,750	660
		(50)	(12)
	Basement.....	Not permitted	Not permitted
2	Ground and upper floors.....	5,500	1,375
		(100)	(25)
	Basement.....	Not permitted	Not permitted
3 ..... FP<100F	Ground and upper floors.....	16,500	4,125
		(300)	(75)
	Basement.....	Not permitted	Not permitted
3 .... FP≥100F	Ground and upper floors.....	16,500	4,125
		(300)	(75)
	Basement.....	5,500	Not permitted
		(100)	
4 ...	Ground and upper floors.....	55,000	13,750
		(1,000)	(250)
	Basement.....	8,250	Not permitted
		(450)	

NOTE 1: When 2 or more categories of materials are stored in a single pile, the maximum gallonage permitted in that pile shall be the smallest of the 2 or more separate maximum gallonages.

NOTE 2: Aisles shall be provided so that no container is more than 12 ft. from an aisle. Main aisles shall be at least 3 ft. wide and side aisles at least 4 ft. wide.

NOTE 3: Each pile shall be separated from each other by at least 4 ft. (Number in parenthesis indicate corresponding number of 55-gal. drums.)

NOTE 4: FP means Flashpoint

TABLE H-15 - INDOOR PORTABLE TANK STORAGE

Category	Storage level	Gallons	
		Protected storage maximum per pile	Unprotected storage maximum per pile
1	Ground and upper floors	Not permitted	Not permitted
	Basement	Not permitted	Not permitted
2	Ground and upper floors	20,000	2,000
	Basement	Not permitted	Not permitted
3	Ground and upper floors	40,000	5,500
FP<100F	Basement	Not permitted	Not permitted
3	Ground and upper floors	40,000	5,500
FP≥100F	Basement	20,000	Not permitted
4	Ground and upper floors	60,000	22,000
	Basement	20,000	Not permitted

NOTE 1: When 1 or more categories of materials are stored in a single pile, the maximum gallonage permitted in that pile shall be the smallest of the 2 or more separate maximum gallonages.

NOTE 2: Aisles shall be provided so that no portable tank is more than 12 ft. from an aisle. Main aisles shall be at least 8 ft. wide and side aisles at least 4 ft. wide.

NOTE 3: Each pile shall be separated from each other by at least 4 ft.

NOTE 4: FP means Flashpoint

TABLE H-16 - OUTDOOR CONTAINER STORAGE

1-Category	2-Maximum per pile	3-Distance between piles	4-Distance to property line that can be built upon	5-Distance to street, alley, public way
	gallons	feet	feet	feet
1	1,100	5	20	10
2	2,200	5	20	10
3 FP<100F.	4,400	5	20	10
3 FP≥100F.	8,800	5	10	5
4	22,000	5	10	5

NOTE 1: When 2 or more categories of materials are stored in a single pile, the maximum gallonage in that pile shall be the smallest of the 2 or more separate gallonages.

NOTE 2: Within 200 ft. of each container, there shall be a 12 ft. wide access way to permit approach of fire control apparatus.

NOTE 3: The distances listed apply to properties that have protection for exposures as defined. If there are exposures, and such protection for exposures does not exist, the distances in column 4 shall be doubled.

NOTE 4: When total quantity stored does not exceed 50 percent of maximum per pile, the distances in columns 4 and 5 may be reduced 50 percent, but not less than 3 ft.

NOTE 5: FP means flashpoint

TABLE H-17 - OUTDOOR PORTABLE TANK STORAGE

1-Category	2-Maximum per pile	3-Distance between piles	4-Distance to property line that can be built upon	5-Distance to street, alley, public way
	gallons	feet	feet	feet
1	2,200	5	20	10
2	4,400	5	20	10
3 FP<100F.	8,800	5	20	10
3 FP≥100F.	17,600	5	10	5
4	44,000	5	10	5

NOTE 1: When 2 or more categories of materials are stored in a single pile, the maximum gallonage in that pile shall be the smallest of the 2 or more separate gallonages.

NOTE 2: Within 200 ft. of each portable tank, there shall be a 12 ft. wide access way to permit approach of fire control apparatus.

NOTE 3: The distances listed apply to properties that have protection for exposures as defined. If there are exposures, and such protection for exposures does not exist, the distances in column 4 shall be doubled.

NOTE 4: When total quantity stored does not exceed 50 percent of maximum per pile, the distances in columns 4 and 5 may be reduced 50 percent, but not less than 3 ft.

TABLE H-19 - ELECTRICAL EQUIPMENT HAZARDOUS AREAS - SERVICE STATIONS

Location	Class I Group D division	Extent of classified area
Underground tank:		
Fill opening.....	1	Any pit, box or space below grade level, any part of which is within the Division 1 or 2 classified area.
	2	Up to 18 inches above grade level within a horizontal radius of 10 feet from a loose fill connection and and within a horizontal radius of 5 feet from a tight fill connection.
Vent-Discharging Upward.	1	Within 3 feet of open end of vent, extending in all directions.
	2	Area between 3 feet and 5 feet of open end of vent, extending in all directions.
Dispenser:		
Pits	1	Any pit, box or space below grade level, any part of which is within the Division 1 or 2 classified area.
Dispenser enclosure ..	1	The area 4 feet vertically above base within the enclosure and 18 inches horizontally in all directions.
Outdoor	2	Up to 18 inches above grade level within 20 feet horizontally of any edge of enclosure.
Indoor:		
With mechanical ventilation	2	Up to 18 inches above grade or floor level within 20 feet horizontally of any edge of enclosure.
With gravity ventilation	2	Up to 18 inches above grade or floor level within 25 feet horizontally of any edge of enclosure.
Remote pump - Outdoor.	1	Any pit, box or space below grade level if any part is within a horizontal distance of 10 feet from any edge of the pump.

	2	Within 3 feet of any edge of the pump, extending in all directions. Also up to 18 inches above grade level within 10 feet horizontally from any edge of the pump.
Remote pump - Indoor .	1	Entire area within any pit.
	2	Within 5 feet of any edge of pump, extending in all directions. Also up to 3 feet above floor or grade level within 25 feet horizontally from any edge of pump.
Lubrication or service room	1	Entire area within any pit.
	2	Area up to 18 inches above floor or grade level within entire lubrication room.
Dispenser for Liquids with a flashpoint below 100 °(37.8 °C)(1).....	2	Within 3 feet of any fill or dispensing point, extending in all directions.
Special enclosure inside building per 1910.106(f)(1)(ii).	1	Entire enclosure.
Sales, storage and rest rooms.....	(2)	If there is any opening to these rooms within the extent of a Division 1 area, the entire room shall be classified as Division 1.

Footnote (1) Category 1 or 2 flammable liquids, or for Category 3 flammable liquids with a flashpoint below 100 ^{0}F (37.8 ^{0}C)".
Footnote(2) Ordinary

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* * * * *

5. Amend § 1910.107 as follows:

A. Amend paragraphs (c)(9)(i), (e)(1), (e)(2), (e)(3), (e)(6)(iv), (e)(8), and (e)(9) by removing the terms ''flammable or combustible liquids'' and replacing them with the phrase ''flammable liquids or liquids with a flashpoint greater than 199.4 °F (93 °C)'' and;

B. Revise paragraphs (e) introductory text and (e)(4) to read as follows:

§ 1910.107 Spray finishing using flammable and combustible materials.

* * * * *

(e) *Flammable liquids and liquids with a flashpoint greater than 199.4 °F (93 °C)*

* * * * *

(4) *Transferring liquids.* Except as provided in paragraph (e)(5) of this section the withdrawal of flammable liquids and liquids with a flashpoint greater than 199.4 °F (93 °C) from containers having a capacity of greater than 60 gallons shall be by approved pumps. The withdrawal of flammable liquids or liquids with a flashpoint greater than 199.4 °F (93 °C) from containers and the filling of containers, including portable mixing tanks, shall be done only in a suitable mixing room or in a spraying area when the ventilating system is in operation. Adequate precautions shall be taken to protect against liquid spillage and sources of ignition.

* * * * *

6. Amend § 1910.119 to revise paragraphs (a)(1)(ii) introductory text, (a)(1)(ii)(B) and the definition of ''Trade secret'' in paragraph (b) to read as follows:

§ 1910.119 Process safety management of highly hazardous chemicals.

* * * * *

(a) * * *

(1) * * *

(ii) A process which involves a Category 1 flammable gas (as defined in 1910.1200 (c)) or a flammable liquid with a flashpoint below 100 °F (37.8 °C) on site in one location, in a quantity of 10,000 pounds (4535.9 kg) or more except for:

* * * * *

(B) Flammable liquids with a flashpoint below 100 °F (37.8 °C) stored in atmospheric tanks or transferred which are kept below their normal boiling point without benefit of chilling or refrigeration.

* * * * *

(b) *Definitions.* * * *

Trade secret means any confidential formula, pattern, process, device, information or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. See Appendix E to

§ 1910.1200—Definition of a Trade Secret (which sets out the criteria to be used in evaluating trade secrets).

* * * * *

7. In § 1910.120, revise the definition of the term *Health hazard* in paragraph (a)(3) to read as follows:

§ 1910.120 Hazardous waste operations and emergency response.

(a) * * *

(3) * * *

Health hazard means a chemical or a pathogen where acute or chronic health effects may occur in exposed employees. It also includes stress due to temperature extremes. The term ''health hazard'' includes chemicals which are classified in accordance with the Hazard Communication Standard, 29 CFR 1910.1200 as posing one of the following effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; target organ specific systemic toxicity (single or repeated dose); or aspiration toxicity. See Appendix A to § 1910.1200—Health Hazard Criteria (Mandatory) (for the criteria for determining whether a chemical is classified as a health hazard).

* * * * *

8. Amend paragraph (d) of § 1910.123, by removing the term ''Combustible liquid'' and revising the definitions of the terms ''Flammable liquid'' and ''Flashpoint'' to read as follows:

§ 1910.123 Dipping and coating operations: Coverage and definitions.

* * * * *

(d) * * *

Flammable liquid means a liquid having a flashpoint below 199.4 °F. (93 °C.).

Flashpoint means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite if tested in accordance with the test methods in Appendix B to § 1910.1200—Physical Hazard Criteria.

* * * * *

9. In § 1910.124, revise paragraph (c)(2) introductory text to read as follows:

§ 1910.124 General requirements for dipping and coating operations.

* * * * *

(c) * * *

(2) You must ensure that any exhaust air re-circulated from a dipping or coating operation using flammable liquids or liquids with a flashpoint greater than 199.4 °F (93 °C) is:

* * * * *

10. Amend § 1910.125 introductory text (including the table) to read as follows:

§ 1910.125 Additional requirements for dipping and coating operations that use flammable or combustible liquids.

If you use flammable liquids, you must comply with the requirements of this section as well as the requirements of §§ 1910.123, 1910.124, and 1910.126, as applicable.

You must comply with this section if:	And:
The flashpoint of the liquid is 199.4 °F (93 °C) or above.	The liquid is heated as part of the operation; or a heated object is placed in the liquid.

* * * * *

Subpart Q—[Amended]

11. Continue the authority citation for subpart Q to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Orders Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31159), as applicable; and 29 CFR part 1911.

12. Amend § 1910.252 as follows;

A. Revise paragraph (c)(1)(iv);

B. Add new paragraph (c)(1)(v).

§ 1910.252 General requirements.

* * * * *

(c) * * *

(1) * * *

(iv) *Hazard communication.* The employer shall include the potentially hazardous materials employed in fluxes, coatings, coverings, and filler metals, all of which are potentially used in welding and cutting, or are released to the atmosphere during welding and cutting, in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of such materials and safety data sheets, and is trained in accordance with the provisions of 29 CFR 1910.1200. Potentially hazardous materials shall include but not be limited to the materials itemized in paragraphs (c)(5) through (c)(12) of this section.

(v) *Additional considerations for hazard communication in welding, cutting, and brazing.*

(A) The suppliers shall determine the hazard as required by § 1910.1200, if any, associated with the use of their materials in welding, cutting, and brazing.

(B) All filler metals and fusible granular materials shall carry the following notice, as a minimum, on tags, boxes, or other containers:

Do not use in areas without adequate ventilation

See ANSI Z49.1–1967 Safety in Welding, Cutting, and Allied Processes published by the American Welding Society.

(C) Where brazing (welding) filler metals contain cadmium in significant amounts, the labels shall indicate the hazards associated with cadmium including cancer, lung and kidney effects, and acute toxicity effects.

(D) Where brazing and gas welding fluxes containing fluorine compounds, the labels shall indicate the hazards associated with fluorine compounds including eye and respiratory tract effects.

* * * * *

Subpart Z—[Amended]

13. Revise the authority citation for subpart Z to read as follows:

Authority: Secs. 4, 6, 8, of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31159), as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act of 1970, except those substances that have exposure limits listed in Tables Z–1, Z–2, and Z–3 of 29 CFR 1910.1000. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, Tables Z–1, Z–2 and Z–3 also issued under 5 U.S.C. 553, Section 1910.1000 Tables Z–1, Z–2, and Z–3 but not under 29 CFR part 1911 except for the arsenic (organic compounds), benzene, cotton dust, and chromium (VI) listings.

Section 1910.1001 also issued under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704) and 5 U.S.C. 553.

Section 1910.1002 also issued under 5 U.S.C. 553, but not under 29 U.S.C. 655 or 29 CFR part 1911.

Sections 1910.1018, 1910.1029, and 1910.1200 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under Pub. L. 106–430, 114 Stat. 1901.

14. Amend § 1910.1001 as follows:

A. Remove paragraph (j)(5);

B. Redesignate paragraphs (j)(1) through (j)(4) as paragraphs (j)(2) through (j)(5);

C. Revise paragraphs (h)(2)(iv), (h)(3)(vi), the newly redesignated paragraphs (j)(4), (j)(5), and the introductory text of (j)(6).

D. Add new paragraph (j)(1);

The revisions, with new designations, read as follows:

§ 1910.1001 Asbestos.

* * * * *

(h) * * *

(2) * * *

(iv) The employer shall ensure that containers of contaminated protective devices or work clothing, which are to be taken out of change rooms or the workplace for cleaning, maintenance or disposal, bear labels in accordance with paragraph (j) of this section.

(3) * * *

(vi) The employer shall ensure that contaminated clothing is transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with paragraph (j) of this section.

* * * * *

(j) * * *

(1) *Hazard Communication—General.* The employer shall include asbestos in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of asbestos and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (j)(7) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer and lung effects.

* * * * *

(4) *Warning signs.*

(i) *Posting.* Warning signs shall be provided and displayed at each regulated area. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(ii) *Sign specifications.*

(A) The warning signs required by paragraph (j)(4)(i) of this section shall bear the following legend:

DANGER

ASBESTOS

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS

AUTHORIZED PERSONNEL ONLY

(B) In addition, where the use of respirators and protective clothing is required in the regulated area under this section, the warning signs shall include the following:

WEAR RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING IN THIS AREA

(iii) The employer shall ensure that employees working in and contiguous to regulated areas comprehend the warning signs required to be posted by paragraph (j)(4)(i) of this section. Means to ensure employee comprehension may include the use of foreign languages, pictographs and graphics.

(iv) At the entrance to mechanical rooms/areas in which employees reasonably can be expected to enter and which contain ACM and/or PACM, the building owner shall post signs which identify the material which is present, its location, and appropriate work practices which, if followed, will ensure that ACM and/or PACM will not be disturbed. The employer shall ensure, to the extent feasible, that employees who come in contact with these signs can comprehend them. Means to ensure employee comprehension may include the use of foreign languages, pictographs, graphics, and awareness training.

(5) *Warning labels.*

(i) *Labeling.* Labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers. When a building owner or employer identifies previously installed ACM and/or PACM, labels or signs shall be affixed or posted so that employees will be notified of what materials contain ACM and/or PACM. The employer shall attach such labels in areas where they will clearly be noticed by employees who are likely to be exposed, such as at the entrance to mechanical room/areas. Signs required by paragraph (j) of this section may be posted in lieu of labels so long as they contain information required for labeling.

(ii) *Label specifications.* In addition to the requirements of paragraph (j)(1), the employer shall ensure that labels of bags or containers of protective clothing and equipment, scrap, waste, and debris containing asbestos fibers include the following information:

DANGER

CONTAINS ASBESTOS FIBERS

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS

DO NOT BREATHE DUST

(6) The provisions for labels and for safety data sheets required by paragraph (j) of this section do not apply where:

* * * * *

15. Amend § 1910.1003 as follows:

A. Amend the last sentence in paragraph (c)(4)(v) to remove the words ''paragraphs (e)(2), (3), and (4)'' and add the words ''paragraph (e)'' in their place;

B. Revise the heading of paragraph (e);

C. Revise paragraphs (e)(1) and (e)(2)

D. Remove paragraph (e)(3);

E. Redesignate paragraphs (e)(4) and (e)(5) as (e)(3) and (e)(4).

The revisions read as follows:

§ 1910.1003 13 Carcinogens (4-nitrobiphenyl, etc.).

* * * * *

(e) *Communication of hazards.* (1) *Hazard communication.* The employer shall include the carcinogens listed below in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of the carcinogens listed below and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (e)(3) of this section. The employer shall ensure that at least the hazards listed for the following chemicals are addressed:

4-Nitrobiphenyl: Cancer;

alpha-Naphthylamine: Cancer: skin irritation, and acute toxicity effects;

Methyl chloromethyl ether: Cancer; skin, eye and respiratory effects; acute toxicity effects; and flammability;

3,3'-Dichlorobenzidine (and its salts): Cancer and skin sensitization;

Bis-Chloromethyl ether: Cancer; skin, eye, and respiratory tract effects; acute toxicity effects; and flammability;

Beta-Naphthylamine: Cancer and acute toxicity effects;

Benzidine: Cancer and acute toxicity effects;

4-Aminodiphenyl: Cancer

Ethyleneimine: Cancer; mutagenicity; skin and eye effects; liver effects; kidney effects; acute toxicity effects; and flammability;

Beta-Propiolactone: Cancer; skin irritation; eye effects; and acute toxicity effects;

2-Acetylaminofluorene: Cancer;

4-Dimethylaminoazo-benzene: Cancer; skin effects; and respiratory tract irritation;

N-Nitrosodimethylamine: Cancer; liver effects; and acute toxicity effects;

(2) *Signs.* (i) The employer shall post entrances to regulated areas with signs bearing the legend:

DANGER

(CHEMICAL IDENTIFICATION)

MAY CAUSE CANCER

AUTHORIZED PERSONNEL ONLY

(ii) The employer shall post signs at entrances to regulated areas containing operations covered in paragraph (c)(5) of this section. The signs shall bear the legend:

DANGER

(CHEMICAL IDENTIFICATION)

MAY CAUSE CANCER

WEAR AIR SUPPLIED HOODS, IMPERVIOUS SUITS, AND PROTECTIVE EQUIPMENT IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

* * * * *

16. Amend § 1910.1017 by revising paragraph (l) to read as follows:

§ 1910.1017 Vinyl chloride.

* * * * *

(l) *Communication of hazards.* (1) *Hazard communication.* The employer shall include vinyl chloride in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of vinyl chloride and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (j) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; central nervous system effects; liver effects; blood effects; and flammability.

(2) *Signs.* (i) The employer shall post entrances to regulated areas with legible signs bearing the legend:

DANGER

VINYL CHLORIDE

MAY CAUSE CANCER

AUTHORIZED PERSONNEL ONLY

(ii) The employer shall post signs at areas containing hazardous operations or where emergencies currently exist. The signs shall be legible and bear the legend:

DANGER

VINYL CHLORIDE

MAY CAUSE CANCER

WEAR RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(3) *Labels.* (i) In addition to the other requirements in this paragraph (l), the employer shall ensure that labels for containers of polyvinyl chloride resin waste from reactors or other waste contaminated with vinyl chloride are legible and include the following information:

CONTAMINATED WITH VINYL CHLORIDE

MAY CAUSE CANCER

(4) No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information, or instruction.

* * * * *

17. Amend § 1910.1018 by revising paragraphs (j)(2)(vii) and (p) as follows:

§ 1910.1018 Inorganic arsenic.

* * * * *

(j) * * *

(2) * * *

(vii) In addition to the communication requirements in paragraph (p) of this section, the employer shall ensure that the containers of contaminated protective clothing and equipment in the workplace or which are to be removed from the workplace are labeled and that the labels include the following information: DANGER: CONTAMINATED WITH INORGANIC ARSENIC. MAY CAUSE CANCER. DO NOT EAT, DRINK, OR SMOKE. DO NOT REMOVE DUST BY BLOWING OR SHAKING.

* * * * *

(p) *Communication of hazards.* (1) *Hazard communication.* (i) The employer shall include inorganic arsenic in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of inorganic arsenic and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (o) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; liver effects; skin effects; respiratory irritation; nervous system effects; and acute toxicity effects.

(ii) The employer shall ensure that no statement appears on or near any sign or label required by this paragraph which contradicts or detracts from the meaning of the required sign or label.

(2) *Signs.* (i) The employer shall post signs demarcating regulated areas bearing the legend:

DANGER

INORGANIC ARSENIC

MAY CAUSE CANCER

DO NOT EAT, DRINK OR SMOKE

WEAR RESPIRATORY PROTECTION IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(ii) The employer shall ensure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

* * * * *

18. Amend § 1910.1025 to revise paragraph (g)(2)(vii) and paragraph (m) to read as follows:

§ 1910.1025 Lead.

* * * * *

(g) * * *

(2) * * *

(vii) The employer shall ensure that labels of bags or containers of contaminated protective clothing and equipment include the following information: DANGER: COTHING AND EQUIPMENT CONTAMINATED WITH LEAD. MAY DAMAGE FERTILITY OR THE UNBORN CHILD. CAUSES DAMAGE TO THE CENTRAL NERVOUS SYSTEM. DO NOT EAT, DRINK OR SMOKE WHEN HANDLING. DO NOT REMOVE DUST BY BLOWING OR SHAKING

* * * * *

(m) *Communication of hazards.* (1) *Hazard communication.* The employer shall include lead in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of lead and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (l) of this section. The employer shall ensure that at least the following hazards are addressed: Reproductive/developmental toxicity; central nervous system effects; kidney effects; blood effects; and acute toxicity effects.

(2) *Signs.* (i) The employer shall post the following warning signs in each work area where the PEL is exceeded:

DANGER

LEAD

MAY DAMAGE FERTILITY OR THE UNBORN CHILD

CAUSES DAMAGE TO THE CENTRAL NERVOUS SYSTEM

DO NOT EAT, DRINK OR SMOKE IN THIS AREA

(ii) The employer shall ensure that no statement appears on or near any sign

required by this paragraph which contradicts or detracts from the meaning of the required sign.

(iii) The employer shall ensure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

* * * * *

19. Amend § 1910.1026 to revise paragraphs (h)(2)(iv), (j)(3)(ii) and (l)(1) to read as follows:

§ 1910.1026 Chromium (VI).

* * * * *

(h) * * *

(2) * * *

(iv) The employer shall ensure that bags or containers of contaminated protective clothing or equipment that are removed from change rooms for laundering, cleaning, maintenance, or disposal are labeled in accordance with the requirements of the Hazard Communication standard, 29 CFR 1910.1200.

* * * * *

(j) * * *

(3) * * *

(ii) The employer shall ensure that bags or containers of waste, scrap, debris, and any other materials contaminated with chromium (VI) that are consigned for disposal are labeled in accordance with the Hazard Communication Standard, 29 CFR 1910.1200.

* * * * *

(l) * * *

(1) *Hazard communication.* The employer shall include chromium (VI) in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of chromium (VI) and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (l)(2) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer, eye irritation, and skin sensitization.

* * * * *

20. Amend § 1910.1027 to revise paragraphs (i)(2)(iv), (k)(7), (m)(1), (m)(2)(ii), (m)(3)(i), and (m)(3)(ii) to read as follows:

§ 1910.1027 Cadmium.

* * * * *

(i) * * *

(2) * * *

(iv) The employer shall ensure that bags or containers of contaminated protective clothing and equipment that are to be taken out of the change rooms or the workplace for laundering, cleaning, maintenance or disposal are labeled in accordance with paragraph (m) of this section. As a minimum, the employer shall ensure that labels on containers of contaminated protective clothing and equipment include the following information:

DANGER

CONTAINS CADMIUM

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS AND KIDNEYS

AVOID CREATING DUST

* * * * *

(k) * * *

(7) Waste, scrap, debris, bags, containers, personal protective equipment, and clothing contaminated with cadmium and consigned for disposal shall be collected and disposed of in sealed impermeable bags or other closed, impermeable containers. These bags and containers shall be labeled in accordance with paragraph (m) of this section.

* * * * *

(m) * * *

(1) *Hazard communication.* The employer shall include cadmium in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of cadmium and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (m)(4) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; lung effects; kidney effects; and acute toxicity effects.

(2) * * *

(ii) Warning signs required by paragraph (m)(2)(i) of this section shall bear the following legend:

DANGER

CADMIUM

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS AND KIDNEYS

WEAR RESPIRATORY PROTECTION IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(3) * * *

(i) Shipping and storage containers containing cadmium or cadmium compounds shall bear appropriate warning labels, as specified in paragraph (m)(1) of this section.

(ii) The warning labels for waste, scrap, or debris shall include at least the following information:

DANGER

CONTAINS CADMIUM

MAY CAUSE CANCER

* * * * *

21. Amend § 1910.1028 to revise the heading of paragraph (j) and the regulatory text of paragraphs (j)(1) and (j)(2) to read as follows:

§ 1910.1028 Benzene.

* * * * *

(j) *Communication of hazards.* (1) *Hazard communication.* The employer shall include benzene in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of benzene and to safety data sheets, and is trained in accordance with the provisions of HCS and (j)(3) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; central nervous system effects; blood effects; aspiration; skin, eye, and respiratory tract irritation; and flammability.

Note to paragraph (j)(1) of this section: There is no requirement to label pipes.

(2) *Signs.* The employer shall post signs at entrances to regulated areas. The signs shall bear the following legend:

DANGER

BENZENE

MAY CAUSE CANCER

HIGHLY FLAMMABLE LIQUID AND VAPOR

DO NOT SMOKE

WEAR RESPIRATORY PROTECTION IN THIS AREA

AUTHORIZED PERSONNEL ONLY

* * * * *

22. Amend § 1910.1029 to revise paragraph (l) to read as follows:

§ 1910.1029 Coke oven emissions.

* * * * *

(l) *Communication of hazards.* (1) *Hazard communication.* The employer shall include coke oven emissions in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of chemicals and substances associated with coke oven processes and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (k) of this section. The employer shall ensure that at least the following hazard is addressed: Cancer.

(2) *Signs.*

(i) The employer shall post signs in the regulated area bearing the legend:

DANGER

COKE OVEN EMISSIONS

MAY CAUSE CANCER

DO NOT EAT, DRINK OR SMOKE

WEAR RESPIRATORY PROTECTION IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(ii) In addition, the employer shall post signs in the areas where the permissible exposure limit is exceeded bearing the legend:

WEAR RESPIRATORY PROTECTION IN THIS AREA

(iii) The employer shall ensure that no statement appears on or near any sign required by this paragraph which contradicts or detracts from the effects of the required sign.

(iv) The employer shall ensure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) *Labels.* In addition to the requirements in (l)(1) of this paragraph, the employer shall ensure that labels of containers of contaminated protective clothing and equipment include the following information:

CONTAMINATED WITH COKE EMISSIONS

MAY CAUSE CANCER

DO NOT EAT, DRINK, OR SMOKE

DO NOT REMOVE DUST BY BLOWING OR SHAKING

* * * * *

23. Amend § 1910.1043 to revise paragraph (j) as follows:

§ 1910.1043 Cotton dust.

* * * * *

(j) *Signs.* The employer shall post the following warning sign in each work area where the permissible exposure limit for cotton dust is exceeded:

DANGER

COTTON DUST

CAUSES DAMAGE TO LUNGS

(BYSSINOSIS)

WEAR RESPIRATORY PROTECTION IN THIS AREA

* * * * *

24. Amend § 1910.1044 to revise paragraphs (j)(2)(v), (k)(1)(iii)(*b*), and (o) to read as follows:

§ 1910.1044 1,2-dibromo-3-chloropropane.

* * * * *

(j) * * *

(2) * * *

(v) Containers of DBCP contaminated protective devices or work clothing which are to be taken out of change rooms or the workplace for cleaning, maintenance or disposal, shall bear labels in accordance with paragraph (o) of this section. As a minimum, the employer shall ensure that labels for containers of contaminated protective devices or work clothing include the following information:
CONTAMINATED WITH 1,2-Dibromo-3-chloropropane (DBCP), MAY CAUSE CANCER.

* * * * *

(k) * * *

(1) * * *

(iii) * * *

(*b*) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (o) of this section.

* * * * *

(o) *Communication of hazards.* (1) *General.* (i) *Hazard communication.* The employer shall include DBCP in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of DBCP and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (n) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; reproductive effects; liver effects; kidney effects; central nervous system effects; skin, eye and respiratory tract irritation; and acute toxicity effects.

(ii) The employer shall ensure that no statement appears on or near any sign or label required by this paragraph which contradicts or detracts from the meaning of the required sign or label.

(2) *Signs.*

The employer shall post signs to clearly indicate all regulated areas. These signs shall bear the legend:

DANGER

1,2-Dibromo-3-chloropropane

MAY CAUSE CANCER

WEAR RESPIRATORY PROTECTION IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(3) The employer shall ensure that the precautionary labels required by this paragraph are readily visible and legible.

* * * * *

25. Amend § 1910.1045 to revise paragraphs (p)(1)(i), (p)(2)(i), and (p)(3) to read as follows:

§ 1910.1045 Acrylonitrile.

* * * * *

(p) *Communication of hazards.* (1) General. (i) *Hazard communication.* The employer shall include AN in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of AN and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (o) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; central nervous system effects; liver effects, skin sensitization, skin, respiratory, and eye irritation; acute toxicity effects; and flammability.

* * * * *

(2) *Signs.* (i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER

ACRYLONITRILE (AN)

MAY CAUSE CANCER

RESPIRATORY PROTECTION MAY BE REQURED IN THIS AREA

AUTHORIZED PERSONNEL ONLY

* * * * *

(3) *Labels.* The employer shall ensure that precautionary labels are affixed to all containers of liquid AN and AN-based materials not exempted under paragraph (a)(2) of this section. The employer shall ensure that the labels remain affixed when the materials are sold, distributed, or otherwise leave the employer's workplace.

* * * * *

26. Amend § 1910.1047 to revise the heading of paragraph (j) and paragraphs (j)(1) and (j)(2) to read as follows:

§ 1910.1047 Ethylene oxide.

* * * * *

(j) *Communication of hazards.* (1) *Hazard communication.* The employer shall include EtO in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of EtO and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (j)(3) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; reproductive effects; mutagenicity; central nervous system; skin sensitization; skin, eye and respiratory tract irritation; acute toxicity effects; and flammability.

(2) *Signs and labels.*

(i) *Signs.* The employer shall post and maintain legible signs demarcating regulated areas and entrances or access ways to regulated areas that bear the following legend:

DANGER

ETHYLENE OXIDE

MAY CAUSE CANCER

MAY DAMAGE FERTILITY OR THE UNBORN CHILD

RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING MAY BE REQUIRED IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(ii) *Labels.* The employer shall ensure that labels are affixed to all containers of EtO whose contents are capable of causing employee exposure at or above the action level or whose contents may reasonably be foreseen to cause employee exposure above the excursion limit, and that the labels remain affixed when the containers of EtO leave the workplace. For the purposes of this paragraph, reaction vessels, storage tanks, and pipes or piping systems are not considered to be containers.

Note to paragraph (j)(2): The labeling requirements under this section do not apply where EtO is used as a pesticide, as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), when it is labeled pursuant to that Act and regulations issued under that Act by the Environmental Protection Agency.

* * * * *

27. Amend § 1910.1048 to revise paragraphs (e)(1); (h)(2)(ii); (j)(4) and (m) to read as follows:

§ 1910.1048 Formaldehyde.

* * * * *

(e) * * *

(1) The employer shall establish regulated areas where the concentration of airborne formaldehyde exceeds either the TWA or the STEL and post all entrances and access ways with signs bearing the following legend:

DANGER

FORMALDEHYDE

MAY CAUSE CANCER

CAUSES SKIN, EYE, AND RESPIRATORY IRRITATION

AUTHORIZED PERSONNEL ONLY

* * * * *

(h) * * *

(2) * * *

(ii) When formaldehyde-contaminated clothing and equipment is ventilated, the employer shall establish storage areas so that employee exposure is minimized.

(A) *Signs.* Storage areas for contaminated clothing and equipment shall have signs bearing the following legend:

DANGER

FORMALDEHYDE-CONTAMINATED [CLOTHING] EQUIPMENT

MAY CAUSE CANCER

CAUSES SKIN, EYE AND RESPIRATORY IRRITATION

DO NOT BREATHE VAPOR

DO NOT GET ON SKIN

(B) *Labels.* The employer shall ensure containers for contaminated clothing and equipment and storage areas are labeled in accordance with the Hazard Communication standard, 29 CFR 1910.1200, and shall, as a minimum, include the following:

DANGER

FORMALDEHYDE-CONTAMINATED [CLOTHING] EQUIPMENT

MAY CAUSE CANCER

CAUSES SKIN, EYE, AND RESPIRATORY IRRITATION

DO NOT BREATHE VAPOR

DO NOT GET ON SKIN

* * * * *

(j) * * *

(4) Formaldehyde-contaminated waste and debris resulting from leaks or spills shall be placed for disposal in sealed containers bearing a label warning of formaldehyde's presence and of the hazards associated with formaldehyde. The employer shall ensure that the labels are in accordance with paragraph (m) of this section.

* * * * *

(m) *Communication of hazards.* (1) *Hazard communication.* The employer shall include formaldehyde in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of formaldehyde and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (n) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; skin and respiratory sensitization; eye, skin and respiratory tract irritation; acute toxicity effects; and flammability.

(i) The employer must include chemicals and substances associated with formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde, and materials capable of releasing formaldehyde into the air at concentrations reaching or exceeding 0.1 ppm, in the hazard communication program.

(ii) In making the determinations of anticipated levels of formaldehyde release, the employer may rely on objective data indicating the extent of potential formaldehyde release under reasonably foreseeable conditions of use.

(2) In addition to the requirements in paragraphs (m)(1) introductory text and (m)(1)(i) of this section, for materials listed in paragraph (m)(1)(i) of this section capable of releasing formaldehyde at levels above 0.5 ppm, labels shall appropriately address all hazards as defined in paragraph (d) of § 1910.1200 and Appendices A and B to § 1910.1200, including cancer and respiratory sensitization, and shall contain the hazard statement ''may cause cancer.''

* * * * *

28. Amend § 1910.1050 as follows:

A. Revise paragraph (i)(2)(v) and the heading of paragraph (k);

B. Revise paragraphs (k)(1) and (k)(2);

C. Redesignate paragraphs (k)(3) and (k)(4) as (k)(4) and (k)(5);

D. Add a new paragraph (k)(3).

The revisions and additions read as follows:

§ 1910.1050 Methylenedianiline.

* * * * *

(i) * * *

(2) * * *

(v) Containers of MDA-contaminated protective work clothing or equipment, which are to be taken out of change rooms or the workplace for cleaning, maintenance, or disposal, shall bear labels warning of the hazards of MDA. The employer shall ensure that labels are consistent with requirements in paragraph (k) of this section and that labels include at least the following information:

DANGER

CONTAINS METHYLENEDIANILINE (MDA)

MAY CAUSE CANCER

CAUSES DAMAGE TO THE LIVER

* * * * *

(k) *Communication of hazards.*

(1) *Hazard communication.* The employer shall include MDA in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of MDA and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (k)(4) of this section. The employer shall ensure that at least the following hazards are addressed:

Cancer; liver effects; and skin sensitization.

(2) *Signs.* The employer shall post and maintain legible signs demarcating regulated areas and entrances or access ways to regulated areas that bear the following legend:

DANGER

MDA

MAY CAUSE CANCER

CAUSES DAMAGE TO THE LIVER

RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING MAY BE REQUIRED IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(3) *Safety data sheets (SDS).* In meeting the obligation to provide safety data sheets, employers shall make appropriate use of the information found in Appendices A and B to § 1910.1050 .

* * * * *

29. Amend § 1910.1051 to revise paragraph (l)(1) as follows:

§ 1910.1051 1,3-Butadiene.

* * * * *

(l) * * *

(1) *Hazard communication.* The employer shall include BD in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of BD and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (l)(2) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; eye and respiratory tract irritation; center nervous system effects; and flammability.

* * * * *

30. Amend § 1910.1052 to revise paragraph (k) as follows:

§ 1910.1052 Methylene chloride.

* * * * *

(k) *Hazard communication.* The employer shall include MC in the workplace hazard communication program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of MC and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (l) of this section. The employer shall provide information on at least the following hazards: Cancer, cardiac effects (including elevation of carboxyhemoglobin), central nervous system effects, liver effects, and skin and eye irritation.

* * * * *

31. Amend § 1910.1200 as follows:

A. Remove the word ''material'' before the word ''safety'' in the phrase ''material safety data sheet'' wherever it appears in paragraphs (b)(3)(ii) and (iv), (b)(4)(ii) five times, (e)(1) introductory text, (e)(1)(i), (e)(2)(i), (g)(heading), (g)(1) two times, (g)(4), (6)(i) two times, (g)(6)(ii) through (iv), (g)(7)(i) two times, (g)(7)(ii), (g)(7)(iii) two times, (g)(7)(iv) two times, (g)(7)(v) two times, (g)(7)(vi) and (vii), (g)(8) two times, (g)(9), (g)(10), (h)(l), (h)(2)(iii),and (i)(1)(ii);

B. Remove the following definitions in paragraph (c) *Combustible liquid, Compressed gas, Explosive, Flammable, Flashpoint, Hazard warning, Identity, Material Data Safety Sheet (MSDS), Organic peroxide, Oxidizer, Pyrophoric, Unstable (reactive),* and *Water reactive;*

C. Revise the following definitions in paragraph (c) *Chemical, Chemical name, Health hazard, Label, Mixture, Physical hazard,* and *Trade secret;*

D. Revise the definition of the term ''Hazardous chemical'' and relocate it in alphabetical order in paragraph (c).

E. Add the following definitions in alphabetical order in paragraph (c) in alphabetical order *Classification, Hazard category, Hazard class, Hazard statement, Label element, Pictogram, Precautionary statement, Product identifier, Safety Data Sheet (SDS), Signal word, Substance and Unclassified Hazard;*

F. Revise paragraphs (a)(1), (a)(2), (b)(1), (d) (heading), (d)(1) through (d)(3), (f), (g)(2), (g)(3), (g)(5), (g)(11), (h)(3)(iv), (i)(1), (i)(1)(iii) and (iv), (i)(2), (i)(3), (i)(3)(iii), (i)(7), (i)(7)(iii), (i)(7)(v), (i)(9)(i), (i)(10)(i), (i)(10)(ii), (i)(11), and (i)(13), and (j);

G. Remove Appendices A, B, and E to § 1910.1200; redesignate Appendix D to § 1910.1200 as Appendix E to § 1910.1200 and add new Appendices A, B, C, D and F to § 1910.1200.

The revisions and additions read as follows:

§ 1910.1200 Hazard communication.

(a) *Purpose.*

(1) The purpose of this section is to ensure that the hazards of all chemicals produced or imported are classified, and that information concerning the classified hazards is transmitted to employers and employees. The requirements of this section are intended to be consistent with the provisions of the United Nations Globally Harmonized System of Classification and Labeling of Chemicals (GHS), Revision 3. The transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, safety data sheets and employee training.

* * * * *

(2) This occupational safety and health standard is intended to address comprehensively the issue of classifying the potential hazards of chemicals, and communicating information concerning hazards and appropriate protective measures to employees, and to preempt any legal requirements of a state, or political subdivision of a state, pertaining to this subject. Classifying the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees, may include, for example, but is not limited to, provisions for: developing and maintaining a written hazard communication program for the workplace, including lists of hazardous chemicals present; labeling of containers of chemicals in the workplace, as well as of containers of chemicals being shipped to other workplaces; preparation and distribution of safety data sheets to employees and downstream employers; and development and implementation of employee training programs regarding hazards of chemicals and protective measures. Under section 18 of the Act, no state or political subdivision of a state may adopt or enforce, through any court or agency, any requirement relating to the issue addressed by this Federal standard, except pursuant to a Federally-approved state plan.

(b) * * *

(1) This section requires chemical manufacturers or importers to classify the hazards of chemicals which they produce or import, and all employers to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels and other forms of warning, safety data sheets, and information and training. In addition, this section requires distributors to transmit the required information to employers. (Employers who do not produce or import chemicals need only focus on those parts of this rule that deal with establishing a workplace program and communicating information to their workers.)

* * * * *

(c) * * *

Chemical means any substance, or mixture of substances.

* * * * *

Chemical name means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name that will clearly identify the chemical for the purpose of conducting a hazard classification.

Classification means to identify the relevant data regarding the hazards of a chemical; review those data to ascertain the hazards associated with the chemical; and decide whether the chemical will be classified as hazardous, and the degree of hazard where appropriate, by comparing the data with the criteria for health and physical hazards.

Hazard category means the division of criteria within each hazard class, *e.g.,* oral acute toxicity and flammable liquids include 4 hazard categories. These categories compare hazard severity within a hazard class and should not be taken as a comparison of hazard categories more generally.

Hazard class means the nature of the physical or health hazards, *e.g.,* flammable solid, carcinogen, oral acute toxicity.

Hazard statement means a statement assigned to a hazard class and category that describes the nature of the hazard(s) of a chemical, including, where appropriate, the degree of hazard.

Hazardous chemical means any chemical which is classified as a physical hazard or a health hazard, or an unclassified hazard as defined in this section.

* * * * *

Health hazard means a chemical that is classified as posing one of the following hazardous effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; specific target organ toxicity (single or repeated exposure); or aspiration hazard. The criteria for determining whether a chemical is classified as a health hazard are detailed in Appendix A to § 1910.1200—Health Hazard Criteria.

* * * * *

Label means an appropriate group of written, printed or graphic information elements concerning a hazardous chemical, that is affixed to, printed on, or attached to the immediate container of a hazardous chemical, or to the outside packaging.

Label elements means the specified pictogram, hazard statement, signal word and precautionary statement for each hazard class and category.

Mixture means a combination or a solution composed of two or more substances in which they do not react.

Physical hazard means a chemical that is classified as posing one of the following hazardous effects: explosive; flammable (gases, aerosols, liquids, or solids); oxidizer (liquid, solid or gas); self-reactive; pyrophoric (liquid or solid); self-heating; organic peroxide; corrosive to metal; gas under pressure; or in contact with water emits flammable gas. See Appendix B to § 1910.1200—Physical Hazard Criteria.

Pictogram means a composition that may include a symbol plus other graphic elements, such as a border, background pattern, or color, that is intended to convey specific information about the hazards of a chemical. Eight pictograms are designated under this standard for application to a hazard category.

Precautionary statement means a phrase that describes recommended measures that should be taken to minimize or prevent adverse effects resulting from exposure to a hazardous chemical, or improper storage or handling.

* * * * *

Product identifier means the name or number used for a hazardous chemical on a label or in the SDS. It provides a unique means by which the user can identify the chemical. The product identifier used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the SDS.

* * * * *

Safety data sheet (SDS) means written or printed material concerning a hazardous chemical that is prepared in accordance with paragraph (g) of this section.

Signal word means a word used to indicate the relative level of severity of hazard and alert the reader to a potential hazard on the label. The signal words used in this section are ''danger'' and ''warning.'' ''Danger'' is used for the more severe hazards, while ''warning'' is used for the less severe.

* * * * *

Substance means chemical elements and their compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product and any impurities deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition.

Trade secret means any confidential formula, pattern, process, device, information or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. Appendix E to § 1910.1200—Definition of Trade Secret, sets out the criteria to be used in evaluating trade secrets.

Unclassified hazard means a chemical for which there is scientific evidence identified during the classification process that it may pose an adverse physical or health effect when present in a workplace under normal conditions of use or in a foreseeable emergency, but the evidence does not currently meet the specified criteria for physical or health hazard classification in this section. This does not include adverse physical and health effects for which there is a hazard class addressed in this section.

* * * * *

(d) *Hazard classification.*

(1) Chemical manufacturers and importers shall evaluate chemicals produced in their workplaces or imported by them to classify their health and physical hazards in accordance with this section. For each chemical, the chemical manufacturer or importer shall determine the hazard classes, and the category of each class that apply to the chemical being classified. Employers are not required to classify chemicals unless they choose not to rely on the classification performed by the chemical manufacturer or importer for the chemical to satisfy this requirement.

(2) Chemical manufacturers, importers or employers classifying chemicals shall identify and consider the full range of available scientific literature and other evidence concerning the potential hazards. There is no requirement to test the chemical to determine how to classify its hazards. Appendix A to § 1910.1200 shall be consulted for classification of health hazards, and Appendix B to § 1910.1200 shall be consulted for the classification of physical hazards.

(3) *Mixtures.*

(i) Chemical manufacturers, importers, or employers evaluating chemicals shall follow the procedures described in Appendixes A and B to § 1910.1200 to classify the hazards of the chemicals, including determinations regarding when mixtures of the classified chemicals are covered by this section.

(ii) A chemical manufacturer or importer of a mixture shall be

responsible for the accuracy of the classification of the mixture even when relying on the classifications for individual ingredients received from the ingredient manufacturers or importers on the safety data sheets.

* * * * *

(f) *Labels and other forms of warning.*

(1) *Labels on shipped containers.* The chemical manufacturer, importer, or distributor shall ensure that each container of classified hazardous chemicals leaving the workplace is labeled, tagged or marked with the following information:

(i) Product identifier;

(ii) Signal word;

(iii) Hazard statement(s);

(iv) Pictogram(s);

(v) Precautionary statement(s); and,

(vi) Name, address, and telephone number of the chemical manufacturer, importer, or other responsible party.

(2) For unclassified hazards, the label shall include the name of the chemical, the name, address, and telephone number of the manufacturer, importer, or other responsible party, and, provide as supplementary information, a description of the unclassified hazards and appropriate precautionary measures to ensure the safe handling and use of the chemical.

(3) The chemical manufacturer, importer, or distributor shall ensure that the information provided under (f)(1)(i) through (v) is in accordance with Appendix C, Allocation of Label Elements, for each hazard class and associated hazard category for the hazardous chemical, prominently displayed, and in English (other languages may also be included if appropriate).

(4) The chemical manufacturer, importer, or distributor shall ensure that the information provided under (f)(1)(ii) through (iv) is located together on the label, tag, or mark.

(5)(i) For solid metal (such as a steel beam or a metal casting), solid wood, or plastic items that are not exempted as articles due to their downstream use, or shipments of whole grain, the required label may be transmitted to the customer at the time of the initial shipment, and need not be included with subsequent shipments to the same employer unless the information on the label changes;

(ii) The label may be transmitted with the initial shipment itself, or with the safety data sheet that is to be provided prior to or at the time of the first shipment; and,

(iii) This exception to requiring labels on every container of hazardous chemicals is only for the solid material itself, and does not apply to hazardous chemicals used in conjunction with, or known to be present with, the material and to which employees handling the items in transit may be exposed (for example, cutting fluids or pesticides in grains).

(6) Chemical manufacturers, importers, or distributors shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this section in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and regulations issued under that Act by the Department of Transportation.

(7) *Workplace labeling.* Except as provided in paragraphs (f)(8) and (f)(9) of this section, the employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged or marked with either:

(i) The information specified under (f)(1)(i) through (v) for labels on shipped containers; or,

(ii) Product identifier and words, pictures, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals, and which, in conjunction with the other information immediately available to employees under the hazard communication program, will provide employees with the specific information regarding the physical and health hazards of the hazardous chemical.

(8) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys the information required by paragraph (f)(7) of this section to be on a label. The employer shall ensure the written materials are readily accessible to the employees in their work area throughout each work shift.

(9) The employer is not required to label portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer. For purposes of this section, drugs which are dispensed by a pharmacy to a health care provider for direct administration to a patient are exempted from labeling.

(10) The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals, unless the container is immediately marked with the required information.

(11) The employer shall ensure that workplace labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having employees who speak other languages may add the information in their language to the material presented, as long as the information is presented in English as well.

(12) Chemical manufacturers, importers, distributors, or employers who become newly aware of any significant information regarding the hazards of a chemical shall revise the labels for the chemical within three months of becoming aware of the new information, and shall ensure that labels on containers of hazardous chemicals shipped after that time contain the new information. If the chemical is not currently produced or imported, the chemical manufacturer, importer, distributor, or employer shall add the information to the label before the chemical is shipped or introduced into the workplace again.

* * * * *

(g) * * *

(2) The chemical manufacturer or importer preparing the safety data sheet shall ensure that it is in English (although the employer may maintain copies in other languages as well), and includes the following section numbers and headings, and associated information under each heading, in the order listed (See Appendix D to § 1910.1200—Safety Data Sheets, for the specific content of each section of the safety data sheet.)

(i) Section 1, Identification;

(ii) Section 2, Hazard(s) identification;

(iii) Section 3, Composition/information on ingredients;

(iv) Section 4, First-aid measures;

(v) Section 5, Fire-fighting measures;

(vi) Section 6, Accidental release measures;

(vii) Section 7, Handling and storage;

(viii) Section 8, Exposure controls/personal protection;

(ix) Section 9, Physical and chemical properties;

(x) Section 10, Stability and reactivity;

(xi) Section 11, Toxicological information.

Note 1 to paragraph (g)(2): To be consistent with the GHS, an SDS must also include the following headings in this order:

Section 12, Ecological information;

Section 13, Disposal considerations;

Section 14, Transport information; and

Section 15, Regulatory information.

Note 2 to paragraph (g)(2): OSHA will not be enforcing information requirements in sections 12 through 15, as these areas are not under its jurisdiction.

(xii) Section 16, Other information, including date of preparation or last revision.

(g)(3) If no relevant information is found for any sub-heading within a section on the safety data sheet, the chemical manufacturer, importer or employer preparing the safety data sheet shall mark it to indicate that no applicable information was found.

* * * * *

(5) The chemical manufacturer, importer or employer preparing the safety data sheet shall ensure that the information provided accurately reflects the scientific evidence used in making the hazard classification. If the chemical manufacturer, importer or employer preparing the safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the safety data sheet before the chemical is introduced into the workplace again.

* * * * *

(11) Safety data sheets shall also be made readily available, upon request, to designated representatives, the Assistant Secretary, and the Director, in accordance with the requirements of 29 CFR 1910.1020(e).

(h) * * *

(3) * * *

(iv) The details of the hazard communication program developed by the employer, including an explanation of the labels received on shipped containers and the workplace labeling system used by the employer; the safety data sheet, including the order of information and how employees can obtain and use the appropriate hazard information.

(i) * * *

(1) The chemical manufacturer, importer, or employer may withhold the specific chemical identity, including the chemical name, other specific identification of a hazardous chemical, or the exact percentage of the substance in a mixture, from the safety data sheet, provided that:

* * * * *

(iii) The safety data sheet indicates that the specific chemical identity and/or percentage of composition is being withheld as a trade secret; and,

(iv) The specific chemical identity and percentage is made available to health professionals, employees, and designated representatives in accordance with the applicable provisions of this paragraph.

(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity and/or specific percentage of composition of a hazardous chemical is necessary for emergency or first-aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity or percentage composition of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of paragraphs (i)(3) and (4) of this section, as soon as circumstances permit.

(3) In non-emergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity or percentage composition, otherwise permitted to be withheld under paragraph (i)(1) of this section, to a health professional (*i.e.* physician, industrial hygienist, toxicologist, epidemiologist, or occupational health nurse) providing medical or other occupational health services to exposed employee(s), and to employees or designated representatives, if:

* * * * *

(iii) The request explains in detail why the disclosure of the specific chemical identity or percentage composition is essential and that, in lieu thereof, the disclosure of the following information to the health professional, employee, or designated representative, would not satisfy the purposes described in paragraph (i)(3)(ii) of this section:

* * * * *

(7) If the chemical manufacturer, importer, or employer denies a written request for disclosure of a specific chemical identity or percentage composition, the denial must:

* * * * *

(iii) Include evidence to support the claim that the specific chemical identity or percent of composition is a trade secret;

* * * * *

(v) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the trade secret.

* * * * *

(9) * * *

(i) The chemical manufacturer, importer, or employer has supported the claim that the specific chemical identity or percentage composition is a trade secret;

* * * * *

(10) * * *

(i) If OSHA determines that the specific chemical identity or percentage composition requested under paragraph (i)(3) of this section is not a ''bona fide'' trade secret, or that it is a trade secret, but the requesting health professional, employee, or designated representative has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer, importer, or employer will be subject to citation by OSHA.

(ii) If a chemical manufacturer, importer, or employer demonstrates to OSHA that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret, the Assistant Secretary may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer, importer, or employer.

* * * * *

(11) If a citation for a failure to release trade secret information is contested by the chemical manufacturer, importer, or employer, the matter will be adjudicated before the Occupational Safety and Health Review Commission in accordance with the Act's enforcement scheme and the applicable Commission rules of procedure. In accordance with the Commission rules, when a chemical manufacturer, importer, or employer continues to withhold the information during the contest, the Administrative Law Judge may review the citation and supporting documentation ''in camera'' or issue appropriate orders to protect the confidentiality of such matters.

* * * * *

(13) Nothing in this paragraph (i) shall be construed as requiring the disclosure under any circumstances of process information which is a trade secret.

(j) *Effective dates.* (1) Employers shall train employees regarding the new labels and safety data sheets by [date 2 years after the publication of the final rule].

(2) Chemical manufacturers, importers, distributors, and employers shall be in compliance with all modified provisions of this section no later than

[date 3 years after the publication of the final rule].

(3) Chemical manufacturers, importers, distributors, and employers may comply with either 29 CFR 1910.1200 revised as of October 1, 2009, or the modified version of this standard, or both during the 3-year transition period.

Appendix A to § 1910.1200—Health Hazard Criteria (Mandatory)

A.0 GENERAL CLASSIFICATION CONSIDERATIONS

A.0.1 Classification

A.0.1.1 The term ''hazard classification'' is used to indicate that only the intrinsic hazardous properties of chemicals are considered. Hazard classification incorporates three steps:

(a) identification of relevant data regarding the hazards of a chemical;

(b) subsequent review of those data to ascertain the hazards associated with the chemical;

(c) determination of whether the chemical will be classified as hazardous and the degree of hazard.

A.0.1.2 For many hazard classes, the criteria are semi-quantitative or qualitative and expert judgment is required to interpret the data for classification purposes.

A.0.2 Available Data, Test Methods and Test Data Quality

A.0.2.1 There is no requirement for testing chemicals.

A.0.2.2 The criteria for determining health hazards are test method neutral, *i.e.,* they do not specify particular test methods, as long as the methods are scientifically validated procedures.

A.0.2.3 The term ''scientifically validated'' refers to the process by which the reliability and the relevance of a procedure are established for a particular purpose.

A.0.2.4 Existing test data are acceptable for classifying chemicals, although expert judgment also may be needed for classification purposes.

A.0.2.5 The effect of a chemical on biological systems is influenced by the physico-chemical properties of the substance and/or ingredients of the mixture and the way in which ingredient substances are biologically available. A chemical need not be classified when it can be shown by conclusive experimental data from scientifically validated test methods that the chemical is not biologically available.

A.0.2.6 For classification purposes, epidemiological data and experience on the effects of chemicals on humans (*e.g.,* occupational data, data from accident databases) shall be taken into account in the evaluation of human health hazards of a chemical.

A.0.3 Classification Based on Weight of Evidence

A.0.3.1 For some hazard classes, classification results directly when the data satisfy the criteria. For others, classification of a chemical shall be determined on the basis of the total weight of evidence using expert judgment. This means that all available information bearing on the classification of hazard shall be considered together, including the results of valid *in vitro* tests, relevant animal data, and human experience such as epidemiological and clinical studies and well-documented case reports and observations.

A.0.3.2 The quality and consistency of the data shall be considered. Information on chemicals related to the material being classified shall be considered as appropriate, as well as site of action and mechanism or mode of action study results. Both positive and negative results shall be assembled together in a single weight of evidence determination.

A.0.3.3 Positive effects which are consistent with the criteria for classification, whether seen in humans or animals, shall normally justify classification. Where evidence is available from both humans and animals and there is a conflict between the findings, the quality and reliability of the evidence from both sources shall be evaluated in order to resolve the question of classification. Reliable, good quality human data shall generally have precedence over other data. However, even well-designed and conducted epidemiological studies may lack a sufficient number of subjects to detect relatively rare but still significant effects, or to assess potentially confounding factors. Therefore, positive results from well-conducted animal studies are not necessarily negated by the lack of positive human experience but require an assessment of the robustness, quality and statistical power of both the human and animal data.

A.0.3.4 Route of exposure, mechanistic information, and metabolism studies are pertinent to determining the relevance of an effect in humans. When such information raises doubt about relevance in humans, a lower classification may be warranted. When there is scientific evidence demonstrating that the mechanism or mode of action is not relevant to humans, the chemical should not be classified.

A.0.3.5 Both positive and negative results are assembled together in the weight of evidence determination. However, a single positive study performed according to good scientific principles and with statistically and biologically significant positive results may justify classification.

A.0.4 Considerations for the Classification of Mixtures

A.0.4.1 For most hazard classes, the recommended process of classification of mixtures is based on the following sequence:

(a) Where test data are available for the complete mixture, the classification of the mixture will always be based on that data;

(b) Where test data are not available for the mixture itself, the bridging principles designated in each health hazard chapter of this appendix shall be considered for classification of the mixture;

For health hazards,

(c) If test data are not available for the mixture itself, and the available information is not sufficient to allow application of the above-mentioned bridging principles, then the method(s) described in each chapter for estimating the hazards based on the information known will be applied to classify the mixture (*e.g.,* application of concentration limits).

A.0.4.2 An exception to the above order or precedence is made for Carcinogenicity, Germ Cell Mutagenicity, and Reproductive Toxicity. For these three hazard classes, mixtures shall be classified based upon information on the ingredient substances, unless on a case-by-case basis, justification can be provided for classifying based upon the mixture as a whole. See chapters A.5, A.6, and A.7 for further information on case-by-case bases.

A.0.4.3 Use of Concentration Limits

A.0.4.3.1 When classifying an untested mixture based on the hazards of its ingredients, concentration limits for the classified ingredients of the mixture are used for several hazard classes. While the adopted concentration limits adequately identify the hazard for most mixtures, there may be some that contain hazardous ingredients at lower concentrations than the specified concentration limits that still pose an identifiable hazard. There may also be cases where the concentration limit is considerably lower than could be expected on the basis of an established non-hazardous level for an ingredient.

A.0.4.3.2 If the classifier has information that the hazard of an ingredient will be evident (*i.e.,* it presents a health risk) below the specified concentration limit, the mixture containing that ingredient shall be classified accordingly.

A.0.4.3.3 In exceptional cases, conclusive data may demonstrate that the hazard of an ingredient will not be evident (*i.e.,* it does not present a health risk) when present at a level above the specified concentration limit(s). In these cases the mixture may be classified according to those data. The data must exclude the possibility that the ingredient will behave in the mixture in a manner that would increase the hazard over that of the pure substance. Furthermore, the mixture must not contain ingredients that would affect that determination.

A.0.4.4 Synergistic or Antagonistic Effects

When performing an assessment in accordance with these requirements, the evaluator must take into account all available information about the potential occurrence of synergistic effects among the ingredients of the mixture. Lowering classification of a mixture to a less hazardous category on the basis of antagonistic effects may be done only if the determination is supported by sufficient data.

A.0.5 Bridging Principles for the Classification of Mixtures Where Test Data Are Not Available for the Complete Mixture

A.0.5.1 Where the mixture itself has not been tested to determine its toxicity, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data shall be used in accordance with the following bridging principles, subject to any specific provisions for mixtures for each hazard class.

These principles ensure that the classification process uses the available data to the greatest extent possible in characterizing the hazards of the mixture.

A.0.5.1.1 Dilution

For mixtures classified in accordance with A.1 through A.10 of this Appendix, if a tested mixture is diluted with a diluent that has an equivalent or lower toxicity classification than the least toxic original ingredient, and which is not expected to affect the toxicity of other ingredients, then:

(a) the new diluted mixture shall be classified as equivalent to the original tested mixture; or

(b) for classification of acute toxicity in accordance with A.1 of this Appendix, paragraph A.1.3.6 (the additivity formula) shall be applied.

A.0.5.1.2 Batching

For mixtures classified in accordance with A.1 through A.10 of this Appendix, the toxicity of a tested production batch of a mixture can be assumed to be substantially equivalent to that of another untested production batch of the same commercial product, when produced by or under the control of the same manufacturer, unless there is reason to believe there is significant variation such that the toxicity of the untested batch has changed. If the latter occurs, a new classification is necessary.

A.0.5.1.3 Concentration of Mixtures

For mixtures classified in accordance with A.1, A.2, A.3, A.8, A.9, or A.10 of this Appendix, if a tested mixture is classified in Category 1, and the concentration of the ingredients of the tested mixture that are in Category 1 is increased, the resulting untested mixture shall be classified in Category 1.

A.0.5.1.4 Interpolation Within One Toxicity Category

For mixtures classified in accordance with A.1, A.2, A.3, A.8, A.9, or A.10 of this Appendix, for three mixtures (A, B and C) with identical ingredients, where mixtures A and B have been tested and are in the same toxicity category, and where untested mixture C has the same toxicologically active ingredients as mixtures A and B but has concentrations of toxicologically active ingredients intermediate to the concentrations in mixtures A and B, then mixture C is assumed to be in the same toxicity category as A and B.

A.0.5.1.5 Substantially Similar Mixtures

For mixtures classified in accordance with A.1 through A.10 of this Appendix, given the following set of conditions:

(a) Where there are two mixtures: (i) A + B;

(ii) C + B;

(b) the concentration of ingredient B is essentially the same in both mixtures;

(c) the concentration of ingredient A in mixture (i) equals that of ingredient C in mixture (ii);

(d) and data on toxicity for A and C are available and substantially equivalent; *i.e.,* they are in the same hazard category and are not expected to affect the toxicity of B; then

If mixture (i) or (ii) is already classified based on test data, the other mixture can be assigned the same hazard category.

A.0.5.1.6 Aerosols

For mixtures classified in accordance with A.1, A.2, A.3, A.4, A.8, or A.9 of this Appendix, an aerosol form of a mixture shall be classified in the same hazard category as the tested, non-aerosolized form of the mixture, provided the added propellant does not affect the toxicity of the mixture when spraying.

A.1 ACUTE TOXICITY

A.1.1 Definition

Acute toxicity refers to those adverse effects occurring following oral or dermal administration of a single dose of a substance, or multiple doses given within 24 hours, or an inhalation exposure of 4 hours.

A.1.2 Classification Criteria for Substances

A.1.2.1 Substances can be allocated to one of four toxicity categories based on acute toxicity by the oral, dermal or inhalation route according to the numeric cut-off criteria as shown in Table A.1.1. Acute toxicity values are expressed as (approximate) LD50 (oral, dermal) or LC50 (inhalation) values or as acute toxicity estimates (ATE). See the footnotes following Table A.1.1 for further explanation on the application of these values.

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Table A.1.1: Acute toxicity hazard categories and acute toxicity estimate (ATE) values defining the respective categories

Exposure route	Category 1	Category 2	Category 3	Category 4
Oral (mg/kg bodyweight) *see: Notes (a)(b)*	≤ 5	>5 and ≤ 50	>50 and ≤ 300	>300 and ≤ 2000
Dermal (mg/kg bodyweight) *see: Notes (a)(b)*	≤ 5	>50 and ≤ 200	>200 and ≤ 1000	> 1000 and ≤ 2000
Inhalation - Gases (ppmV) *see: Note (a) Note (b) Note (c)*	≤ 100	>100 and ≤ 500	>500 and ≤ 2500	>2500 and ≤ 20000
Inhalation - Vapors (mg/l) *see: Note (a) Note (b) Note (c) Note (d)*	≤ 0.5	>0.5 and ≤ 2.0	>2.0 and ≤ 10.0	>10.0 and ≤ 20.0
Inhalation – Dusts and Mists (mg/l) *see: Note (a) Note (b) Note (c)*	≤ 0.05	>0.05 and ≤ 0.5	>0.5 and ≤ 1.0	>1.0 and ≤ 5.0

Note: Gases concentration are expressed in parts per million per volume (ppmV).

Notes to Table A.1.1:

(a) The acute toxicity estimate (ATE) for the classification of a substance is derived using the LD_{50}/LC_{50} where available ;

(b) The acute toxicity estimate (ATE) for the classification of a substance or ingredient in a mixture is derived using:

(i) the LD_{50}/LC_{50} where available. Otherwise,

(ii) the appropriate conversion value from Table 1.2 that relates to the results of a range test, or

(iii) the appropriate conversion value from Table 1.2 that relates to a classification category;

(c) Inhalation cut-off values in the table are based on 4 hour testing exposures. Conversion of existing inhalation toxicity data which has been generated according to 1 hour exposure is achieved by dividing by a factor of 2 for gases and vapors and 4 for dusts and mists;

(d) For some chemicals the test atmosphere may consist of a vapor which is near the gaseous phase. In these cases, classification is based on ppmV as follows: Category 1 (100 ppmV), Category 2 (500 ppmV), Category 3 (2500 ppmV), Category 4 (20000 ppmV).

The terms "dust", "mist" and "vapor" are defined as follows:

(i) Dust: solid particles of a substance or mixture suspended in a gas (usually air);

(ii) Mist: liquid droplets of a substance or mixture suspended in a gas (usually air);

(iii) Vapor: the gaseous form of a substance or mixture released from its liquid or solid state.

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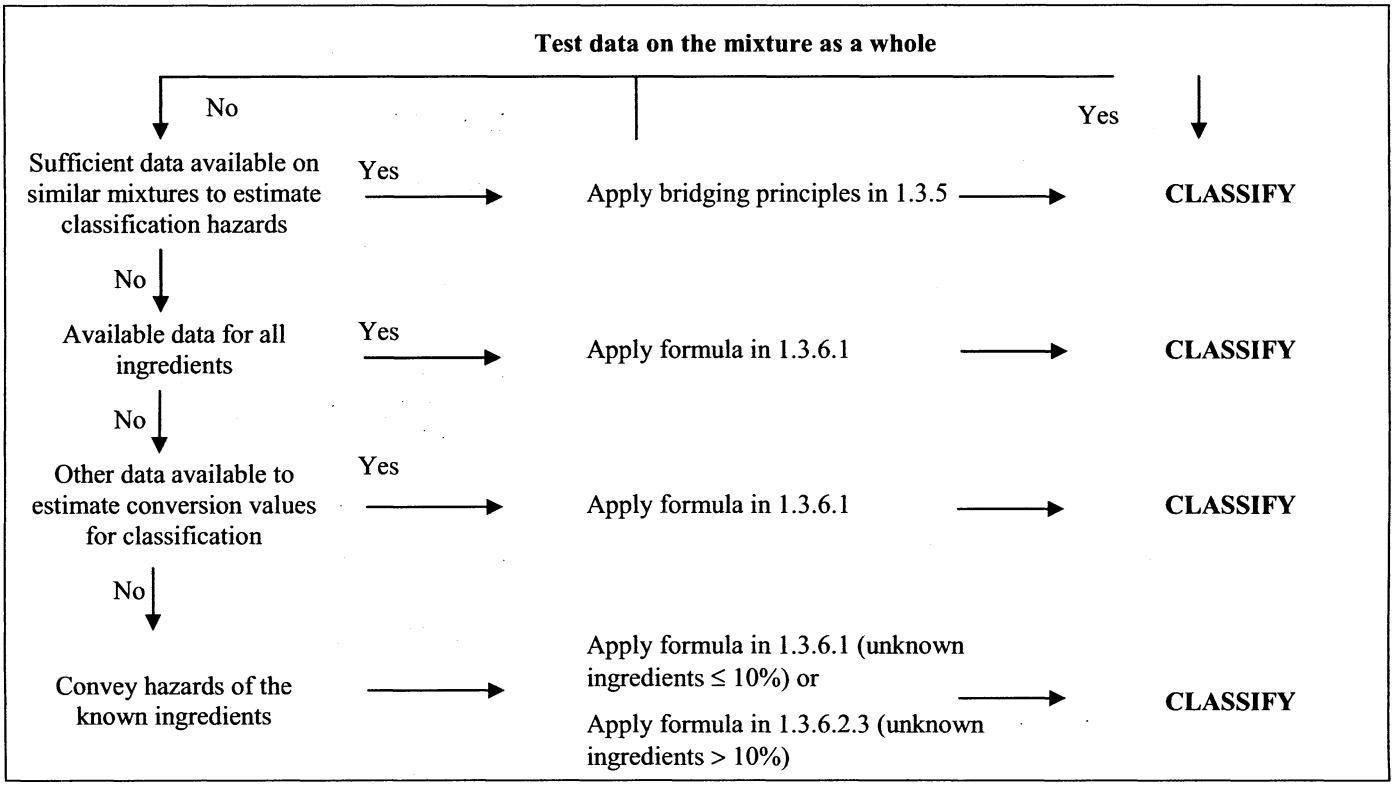
A.1.2.3 The preferred test species for evaluation of acute toxicity by the oral and inhalation routes is the rat, while the rat or rabbit are preferred for evaluation of acute

dermal toxicity. Test data already generated for the classification of chemicals under existing systems should be accepted when reclassifying these chemicals under the harmonized system. When experimental data for acute toxicity are available in several animal species, scientific judgment should be used in selecting the most appropriate LD_{50} value from among scientifically validated tests.

A.1.3 Classification Criteria for Mixtures

A.1.3.1 The approach to classification of mixtures for acute toxicity is tiered, and is dependent upon the amount of information available for the mixture itself and for its ingredients. The flow chart of Figure A.1.1 indicates the process that must be followed:

Figure A.1.1: Tiered approach to classification of mixtures for acute toxicity



A.1.3.2 Classification of mixtures for acute toxicity can be carried out for each route of exposure, but is only needed for one route of exposure as long as this route is followed (estimated or tested) for all ingredients and there is no relevant evidence to suggest acute toxicity by multiple routes. When there is relevant evidence of toxicity by multiple routes of exposure, classification is to be conducted for all appropriate routes of exposure. All available information shall be considered. The pictogram and signal word used shall reflect the most severe hazard category; and all relevant hazard statements shall be used.

A.1.3.3 For purposes of classifying the hazards of mixtures in the tiered approach:

(a) The ''relevant ingredients'' of a mixture are those which are present in concentrations ≥ 1% (weight/weight for solids, liquids, dusts, mists and vapors and volume/volume for gases). If there is reason to suspect that an ingredient present at a concentration < 1% will affect classification of the mixture for acute toxicity, that ingredient shall also be considered relevant. Consideration of ingredients present at a concentration < 1% is particularly important when classifying untested mixtures which contain ingredients that are classified in Category 1 and Category 2;

(b) Where a classified mixture is used as an ingredient of another mixture, the actual or derived acute toxicity estimate (ATE) for that mixture is used when calculating the classification of the new mixture using the formulas in A.1.3.6.1 and A.1.3.6.2.3.

(c) If the converted acute toxicity point estimates for all ingredients of a mixture are within the same category, then the mixture should be classified in that category.

(d) When only range data (or acute toxicity hazard category information) are available for ingredients in a mixture, they may be converted to point estimates in accordance with Table A.1.2 when calculating the classification of the new mixture using the formulas in A.1.3.6.1 and A.1.3.6.2.3.

A.1.3.4 Classification of Mixtures Where Acute Toxicity Test Data Are Available for the Complete Mixture

Where the mixture itself has been tested to determine its acute toxicity, it is classified according to the same criteria as those used for substances, presented in Table A.1.1. If test data for the mixture are not available, the procedures presented below must be followed.

A.1.3.5 Classification of Mixtures Where Acute Toxicity Test Data Are Not Available for the Complete Mixture: Bridging Principles

A.1.3.5.1 Where the mixture itself has not been tested to determine its acute toxicity, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data will be used in accordance with the following bridging principles as found in paragraph A.0.5 of this Appendix: Dilution, Batching, Concentration of mixtures, Interpolation within one toxicity category, Substantially similar mixtures, and Aerosols.

A.1.3.6 Classification of Mixtures Based on Ingredients of the Mixture (Additivity Formula)

A.1.3.6.1 Data Available for All Ingredients

The acute toxicity estimate (ATE) of ingredients is considered as follows:

(a) Include ingredients with a known acute toxicity, which fall into any of the acute toxicity categories;

(b) Ignore ingredients that are presumed not acutely toxic (*e.g.,* water, sugar);

(c) Ignore ingredients if the data available are from a limit dose test (at the upper

threshold for Category 4 for the appropriate route of exposure as provided in Table A.1.1) and do not show acute toxicity.

Ingredients that fall within the scope of this paragraph are considered to be ingredients with a known acute toxicity estimate (ATE). See note (b) to Table A.1.1 and paragraph A.1.3.3 for appropriate application of available data to the equation below, and paragraph A.1.3.6.2.3.''.

The ATE of the mixture is determined by calculation from the ATE values for all relevant ingredients according to the following formula below for oral, dermal or inhalation toxicity:

$$\frac{100}{\text{ATEmix}} = \sum_{n} \frac{Ci}{\text{ATE}_i}$$

Where:

C^i = concentration of ingredient i

n ingredients and i is running from l to n

ATEi = Acute toxicity estimate of ingredient i.

A.1.3.6.2 Data Are Not Available for One or More Ingredients of the Mixture

A.1.3.6.2.1 Where an ATE is not available for an individual ingredient of the mixture, but available information provides a derived conversion value, the formula in A.1.3.6.1 may be applied. This information may include evaluation of:

(a) Extrapolation between oral, dermal and inhalation acute toxicity estimates. Such an evaluation requires appropriate pharmacodynamic and pharmacokinetic data;

(b) Evidence from human exposure that indicates toxic effects but does not provide lethal dose data;

(c) Evidence from any other toxicity tests/assays available on the substance that indicates toxic acute effects but does not necessarily provide lethal dose data; or

(d) Data from closely analogous substances using structure/activity relationships.

A.1.3.6.2.2 This approach requires substantial supplemental technical information, and a highly trained and experienced expert, to reliably estimate acute toxicity. If sufficient information is not available to reliably estimate acute toxicity, proceed to the provisions of A.1.3.6.2.3.

A.1.3.6.2.3 In the event that an ingredient with unknown acute toxicity is used in a mixture at a concentration ≥ 1%, the mixture cannot be attributed a definitive acute toxicity estimate. In this situation the mixture is classified based on the known ingredients only. (**Note:** A statement that × percent of the mixture consists of ingredient(s) of unknown toxicity is required on the label and safety data sheet in such cases; see Appendix C, Allocation of Label Elements and Appendix D, Safety Data Sheets.)

A.1.3.6.2.4 If the total concentration of the ingredient(s) with unknown acute toxicity is ≤ 10% then the formula presented in A.1.3.6.1 must be used. If the total concentration of the ingredient(s) with unknown toxicity is > 10%, the formula presented in A.1.3.6.1 is corrected to adjust for the total percentage of the unknown ingredient(s) as follows:

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$$\frac{100 - \left(\sum C_{\text{unknown}} \text{ if } >10\%\right)}{\text{ATE}_{\text{mix}}} = \sum_{n} \frac{Ci}{\text{ATE}_i}$$

Table A.1.2: Conversion from experimentally obtained acute toxicity range values (or acute toxicity hazard categories) to acute toxicity point estimates for use in the formulas for the classification of mixtures

Exposure routes	Classification category or experimentally obtained acute toxicity range estimate	Converted Acute Toxicity point estimate
Oral (mg/kg bodyweight)	0 < Category 1 ≤ 5	0.5
	5 < Category 2 ≤ 50	5
	50 < Category 3 ≤ 300	100
	300 < Category 4 ≤ 2000	500
Dermal (mg/kg bodyweight)	0 < Category 1 ≤ 50	5
	50 < Category 2 ≤ 200	50
	200 < Category 3 ≤ 1000	300
	1000 < Category 4 ≤ 2000	1100
Gases (ppmV)	0 < Category 1 ≤ 100	10
	100 < Category 2 ≤ 500	100
	500 < Category 3 ≤ 2500	700
	2500 < Category 4 ≤ 20000	4500
Vapors (mg/l)	0 < Category 1 ≤ 0.5	0.05
	0.5 < Category 2 ≤ 2.0	0.5
	2.0 < Category 3 ≤ 10.0	3
	10.0 < Category 4 ≤ 20.0	11
Dust/mist (mg/l)	0 < Category 1 ≤ 0.05	0.005
	0.05 < Category 2 ≤ 0.5	0.05
	0.5 < Category 3 ≤ 1.0	0.5
	1.0 < Category 4 ≤ 5.0	1.5

Note: Gases concentration are expressed in parts per million per volume (ppmV).

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A.2 SKIN CORROSION/IRRITATION

A.2.1 Definitions

Skin corrosion is the production of irreversible damage to the skin; namely, visible necrosis through the epidermis and into the dermis, following the application of a test substance for up to 4 hours. Corrosive reactions are typified by ulcers, bleeding, bloody scabs, and, by the end of observation at 14 days, by discoloration due to blanching of the skin, complete areas of alopecia, and scars. Histopathology should be considered to evaluate questionable lesions.

Skin irritation is the production of reversible damage to the skin following the application of a test substance for up to 4 hours.

A.2.2 Classification Criteria for Substances Using Test Data

A.2.2.1 Corrosion

A.2.2.2 A single harmonized corrosion category is provided in Table A.2.1, using the results of animal testing. A corrosive is a substance that produces destruction of skin tissue, namely, visible necrosis through the epidermis and into the dermis, in at least 1 of 3 tested animals after exposure up to a 4 hour duration. Corrosive reactions are typified by ulcers, bleeding, bloody scabs and, by the end of observation at 14 days, by discoloration due to blanching of the skin, complete areas of alopecia and scars. Histopathology should be considered to discern questionable lesions.

A.2.2.3 Three sub-categories of Category 1 are provided in Table A.2.1, all of which will be regulated as Category 1.

TABLE A.2.1—SKIN CORROSION CATEGORY AND SUB-CATEGORIES [a]

Category 1: Corrosive	Corrosive sub-categories	Corrosive in ≥ 1 of 3 animals	
		Exposure	Observation
	1A	≤ 3 min	≤ 1 h.
	1B	> 3 min ≤ 1 h	≤ 14 days.
	1C	> 1 h ≤ 4 h	≤ 14 days.

[a] *The use of human data is discussed in Appendix A.0.2.6.*

A.2.3 Irritation

A.2.3.1 A single irritant category (Category 2) is presented in the Table A.2.2. The major criterion for the irritant category is that at least 2 tested animals have a mean score of ≥ 2.3 ≤ 4.0.

TABLE A.2.2—SKIN IRRITATION CATEGORY [a]

	Criteria
Irritant (Category 2)	(1) Mean value of ≥ 2.3 ≤ 4.0 for erythema/eschar or for oedema in at least 2 of 3 tested animals from gradings at 24, 48 and 72 hours after patch removal or, if reactions are delayed, from grades on 3 consecutive days after the onset of skin reactions; or (2) Inflammation that persists to the end of the observation period normally 14 days in at least 2 animals, particularly taking into account alopecia (limited area), hyperkeratosis, hyperplasia, and scaling; or (3) In some cases where there is pronounced variability of response among animals, with very definite positive effects related to chemical exposure in a single animal but less than the criteria above.

[a] The use of human data is discussed in Appendix A.0.

A.2.3.2 Animal irritant responses within a test can be quite variable, as they are with corrosion. A separate irritant criterion accommodates cases when there is a significant irritant response but less than the mean score criterion for a positive test. For example, a substance might be designated as an irritant if at least 1 of 3 tested animals shows a very elevated mean score throughout the study, including lesions persisting at the end of an observation period of normally 14 days. Other responses could also fulfil this criterion. However, it should be ascertained that the responses are the result of chemical exposure. Addition of this criterion increases the sensitivity of the classification system.

A.2.3.3 Reversibility of skin lesions is another consideration in evaluating irritant responses. When inflammation persists to the end of the observation period in 2 or more test animals, taking into consideration alopecia (limited area), hyperkeratosis, hyperplasia and scaling, then a material should be considered to be an irritant.

A.2.4 Classification Criteria for Substances Using Other Data Elements

A.2.4.1 Several factors must be considered in determining the corrosion and irritation potential of substances when no clear data exist for those substances:

- Solid substances (powders) may become corrosive or irritant when moistened or in contact with moist skin or mucous membranes.
- Existing human experience and data including from single or repeated exposure and animal observations and data shall be the first line of analysis, as they give information directly relevant to effects on the skin.
- In some cases enough information may be available from structurally related compounds to make classification decisions.
- pH extremes ≤ 2 and ≥ 11.5 may indicate skin effects, especially when buffering capacity is known, although the correlation is not perfect. Generally, such agents are expected to produce significant effects on the skin.
- If a chemical is highly toxic by the dermal route, data from dermal testing for skin irritation/corrosion may not be available since the amount of test substance to be applied would considerably exceed the toxic dose and, consequently, would result in the death of the animals.
- *In vitro* alternatives that have been validated and accepted may also be used to help make classification decisions.

All the above information that is available on a substance shall be evaluated. Although information might be gained from the evaluation of single parameters within a tier (see A.2.4), there is merit in considering the totality of existing information and making an overall weight of evidence determination. This is especially true when there is information available on some but not all parameters. Primary emphasis shall be placed upon existing human experience and data, followed by animal experience and testing data, followed by other sources of information, but case-by-case determinations are necessary.

A.2.4.2 A *tiered approach* to the evaluation of initial information shall be considered, where applicable (Figure A.2.1), recognizing that all elements may not be relevant in certain cases.

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Figure A.2.1: Tiered evaluation of skin corrosion and irritation potential

Step	Parameter	Finding	Conclusion
1a	Existing human or animal experience	Corrosive	Category 1
	↓ Not corrosive or no data		
1b	Existing human or animal experience	Irritant	Category 2
	↓ Not irritant or no data		
1c	Existing human or animal experience	Not corrosive or irritant	Not classified
	↓ No data		
2a	Structure-activity relationships	Corrosive	Category 1
	↓ Not corrosive or no data		
2b	Structure-activity relationships	Irritant	Category 2
	↓ Not irritating or no data		
3	pH with buffering [(a)]	pH ≤ 2 or ≥ 11.5	Category 1
	↓ Not pH extreme or no data		
4	Valid and accepted *in vitro* skin corrosion test	Positive response	Category 1
	↓ Negative response or no data		
	↓		
5	Valid and accepted *in vitro* skin irritation test [(b)]	Positive response	Category 2
	↓ Negative response or no data	→	Not classified

(a) Measurement of pH alone may be adequate, but assessment of acid or alkali reserve is preferable; methods are needed to assess buffering capacity;

(b) Presently there are no validated and accepted in vitro test methods for skin irritation.

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A.2.5 Classification Curiteria for Mixtures

A.2.5.1 Classification of Mixtures When Data Are Available for the Complete Mixture

A.2.5.1.1 The mixture shall be classified using the criteria for substances (see A.2.2 to A.2.4).

A.2.5.2 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

A.2.5.2.1 Where the mixture itself has not been tested to determine its skin irritation/corrosion, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data will be used in accordance with the following bridging principles, as found in paragraph A.0.5 of this Appendix: Dilution, Batching, Concentration of mixtures, Interpolation within one toxicity category, Substantially similar mixtures, and Aerosols.

A.2.5.3 Classification of Mixtures When Data Are Available for All Ingredients or Only for Some Ingredients of the Mixture

A.2.5.3.1 In order to make use of all available data for purposes of classifying the skin irritation/corrosion hazards of mixtures, the following assumption has been made and is applied where appropriate in the tiered approach:

The ''relevant ingredients'' of a mixture are those which are present in concentrations ≥ 1% (w/w for solids, liquids, dusts, mists and vapors and v/v for gases), unless there is a presumption (*e.g.* in the case of corrosive ingredients) that an ingredient present at a concentration < 1% can still be relevant for classifying the mixture for skin irritation/corrosion.

A.2.5.3.2 In general, the approach to classification of mixtures as irritant or corrosive to skin when data are available on the ingredients, but not on the mixture as a whole, is based on the theory of additivity, such that each corrosive or irritant ingredient contributes to the overall irritant or corrosive properties of the mixture in proportion to its potency and concentration. A weighting factor of 10 is used for corrosive ingredients when they are present at a concentration below the concentration limit for classification with Category 1, but are at a concentration that will contribute to the classification of the mixture as an irritant. The mixture is classified as corrosive or irritant when the sum of the concentrations of such ingredients exceeds a cut-off value/concentration limit.

A.2.5.3.3 Table A.2.3 below provides the cut-off value/concentration limits to be used to determine if the mixture is considered to be an irritant or a corrosive to the skin.

A.2.5.3.4 Particular care shall be taken when classifying certain types of chemicals such as acids and bases, inorganic salts, aldehydes, phenols, and surfactants. The approach explained in A.2.5.3.1 and A.2.5.3.2 might not work given that many of such substances are corrosive or irritant at concentrations < 1%. For mixtures containing strong acids or bases the pH should be used as classification criteria since pH will be a better indicator of corrosion than the concentration limits of Table A.2.3. A mixture containing corrosive or irritant ingredients that cannot be classified based on the additivity approach shown in Table A.2.3, due to chemical characteristics that make this approach unworkable, should be classified as skin Category 1 if it contains ≥ 1% of a corrosive ingredient and as skin Category 2 when it contains ≥ 3% of an irritant ingredient. Classification of mixtures with ingredients for which the approach in Table A.2.3 does not apply is summarized in Table A.2.4 below.

A.2.5.3.5 On occasion, reliable data may show that the skin corrosion/irritation of an ingredient will not be evident when present at a level above the generic concentration cut-off values mentioned in Tables 3.2.3 and 3.2.4. In these cases the mixture could be classified according to those data (see *Use of concentration limits*, paragraph A.0.4.3 of this Appendix).

A.2.5.3.6 If there are data showing that (an) ingredient(s) may be corrosive or irritant at a concentration of < 1% (corrosive) or < 3% (irritant), the mixture shall be classified accordingly (see *Use of concentration limits,* paragraph A.0.4.3 of this Appendix).

TABLE A.2.3—CONCENTRATION OF INGREDIENTS OF A MIXTURE CLASSIFIED AS SKIN CATEGORY 1 OR 2 THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE AS HAZARDOUS TO SKIN (CATEGORY 1 OR 2)

Sum of ingredients classified as:	Concentration triggering classification of a mixture as:	
	Skin corrosive	Skin irritant
		Category 1
Skin Category 1	≥ 5%	≥ 1% but < 5%.
Skin Category 2		≥ 10%.
(10 × Skin Category 1) + Skin Category 2		≥ 10%.

TABLE A.2.4—CONCENTRATION OF INGREDIENTS OF A MIXTURE FOR WHICH THE ADDITIVITY APPROACH DOES NOT APPLY, THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE AS HAZARDOUS TO SKIN

Ingredient:	Concentration:	Mixture classified as: Skin
Acid with pH ≤ 2	≥ 1%	Category 1.
Base with pH ≥ 11.5	≥ 1%	Category 1.
Other corrosive (Category 1) ingredients for which additivity does not apply	≥ 1%	Category 1.
Other irritant (Category 2) ingredients for which additivity does not apply, including acids and bases	≥ 3%	Category 2.

A.3 SERIOUS EYE DAMAGE /EYE IRRITATION

A.3.1 Definitions

Serious eye damage is the production of tissue damage in the eye, or serious physical decay of vision, following application of a test substance to the anterior surface of the eye, which is not fully reversible within 21 days of application.

Eye irritation is the production of changes in the eye following the application of test substance to the anterior surface of the eye, which are fully reversible within 21 days of application.

A.3.2 Classification Criteria for Substances Using Test Data

A.3.2.1 Irreversible Effects on the Eye/ Serious Damage to Eyes (Category 1)

A single hazard category is provided in Table A.3.1, for substances that have the potential to seriously damage the eyes. Category 1, irreversible effects on the eye, includes the criteria listed below. These observations include animals with grade 4 cornea lesions and other severe reactions (*e.g.* destruction of cornea) observed at any time during the test, as well as persistent corneal opacity, discoloration of the cornea by a dye substance, adhesion, pannus, and interference with the function of the iris or other effects that impair sight. In this context, persistent lesions are considered those which are not fully reversible within an observation period of normally 21 days. Category 1 also contains substances fulfilling the criteria of corneal opacity ≥ 3 or iritis > 1.5 detected in a Draize eye test with rabbits, because severe lesions like these usually do not reverse within a 21-day observation period.

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Table A.3.1: Irreversible eye effects [a]

An eye irritant Category 1 (irreversible effects on the eye) is a substance that produces:
(a) at least in one animal effects on the cornea, iris or conjunctiva that are not expected to reverse or have not fully reversed within an observation period of normally 21 days; and/or
(b) at least in 2 of 3 tested animals, a positive response of:
(i) corneal opacity ≥ 3; and/or
(ii) iritis > 1.5;
calculated as the mean scores following grading at 24, 48 and 72 hours after installation of the substance.

[a] *The use of human data is discussed in paragraph A.0.2.6.*

A.3.2.2 Reversible Effects on the Eye (Category 2)

A single category is provided in Table A.3.2 for substances that have the potential to induce reversible eye irritation.

Table A.3.2: Reversible eye effects

An eye irritant Category 2A (irritating to eyes) is a substance that produces:
(a) at least in 2 of 3 tested animals a positive response of:
(i) corneal opacity ≥ 1; and/or
(ii) iritis ≥ 1; and/or
(iii)conjunctival redness ≥ 2; and/or
(iv)conjunctival edema (chemosis) ≥ 2
calculated as the mean scores following grading at 24, 48 and 72 hours after installation of the substance, and which fully reverses within an observation period of normally 21 days.

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For those chemicals where there is pronounced variability among animal responses, this information may be taken into account in determining the classification.

A.3.3 Classification Criteria for Substances Using Other Data Elements

A.3.3.1 A tiered evaluation scheme that combines pre-existing information on serious ocular tissue damage and on eye irritation (including data relating to historical human or animal experience) as well as considerations on structure-activity relationships (SAR) or structure-property relationships (SPR) and the output of validated in vitro tests shall be used for substances where no clear test data exist for those substances:

A.3.3.2 All existing information on a substance shall be reviewed and several factors considered in determining the serious eye damage or irritation potential of substances:

- Accumulated human and animal data shall be the first line of analysis, as it gives information directly relevant to effects on the eye.
- In some cases enough information may be available from structurally related compounds to make hazard decisions.
- Likewise, pH extremes like ≥ 2 and > 11.5 may produce serious eye damage, especially when associated with significant buffering capacity. Such agents are expected to produce significant effects on the eyes.
- Possible skin corrosion has to be evaluated prior to consideration of serious eye damage/eye irritation in order to avoid testing for local effects on eyes with skin corrosive substances.
- *In vitro* alternatives that have been validated and accepted may be used to make classification decisions.

A.3.3.3 All the above information that is available on a substance shall be evaluated. Although information might be gained from the evaluation of single parameters within a tier, there is merit in considering the totality of existing information and making an overall weight of evidence determination. This is especially true when there is information available on some but not all parameters. Generally, primary emphasis shall be placed upon expert judgment, considering human experience with the substance, followed by the outcome of skin irritation testing and of well validated alternative methods.

A.3.3.4 A tiered approach to the evaluation of initial information shall be considered where applicable, recognizing that all elements may not be relevant in certain cases (Figure A.3.1).

A.3.3.5 The proposed tiered testing approach provides good guidance on how to organize existing information on a substance and to make a weight-of-evidence decision, where appropriate, about hazard assessment and hazard classification.

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Figure A.3.1: Evaluation strategy for serious eye damage and eye irritation (see also Figure A.2.1)

Step	Parameter	Findings	Conclusions
1a	Data relating to historical human or animal experience	→ Serious eye damage	→ Category 1
		→ Eye irritant	→ Category 2
	↓ No or No Evaluation		
1b	Data relating to historical human or animal experience	→ Skin corrosive	→ Category 1
	↓ No or No Evaluation		
1c	Data relating to historical human or animal experience	→ Skin irritant	→ Category 2
	↓ No or No Evaluation		
2a	Structure activity relationships (SAR)	→ Severe damage to eyes	→ Category 1
	↓ No or don't know		
2b	Structure activity relationships (SAR)	→ Eye irritant	→ Category 2
	↓ No or No Evaluation		
2c	Structure activity relationships (SAR)	→ Skin corrosive	→ Category 1
	↓ No or No Evaluation		
3a	pH/acid or alkaline reserve	→ pH ≥ 11.5 or pH ≤ 2 (considering acid or alkaline reserve)	→ Category 1
	↓		
3b	2 < pH < 11.5 (no buffering potential)		
	↓		
4	Other information indicating the material is a skin corrosive	→ Yes	→ Category 1
	↓ No		

(Cont'd on next page)

Figure A.3.1 *(cont'd)*: Evaluation strategy for serious eye damage and eye irritation (see also Figure A.2.1)

Step	Parameter	Findings	Conclusions
5	Is a valid *in vitro* test available to assess severe damage to eyes	No	Go to step 6
5a	*In vitro* test for severe eye irritation	Severe damage to eyes	Category 1
	Not a severe eye irritant		
6	Is a valid *in vitro* test for eye irritation available	No	Not Classified
	Yes		
6a	*In vitro* eye irritation test	Eye irritant	Category 2
	No indication of eye irritant properties		Not Classified

Notes to Figure A.3.1:

Step 1a/b: Data relating to historical human or animal experience: pre-existing information on eye irritation and skin corrosion are shown separately because evaluation of skin corrosion has to be considered if there is no information on local effects on eyes. Analysis of pre-existing experience with the substance may identify serious eye damage, corrosion and irritation potential for both skin and eye effects:

(i) Step 1a - reliable determination of eye irritancy basing on human or animal experience - depends on expert judgment: in most cases human experience is based on accidental events and thus, the local effects detected after an accident have to be compared with classification criteria created for evaluation of animal test data;

(ii) Step 1b - evaluation of data on skin corrosivity - skin corrosive substances shall be considered as leading to serious damage to the eyes as well (Category 1).

Step 2a/b/c: SAR (Structure Activity Relationships) for eye irritation and skin corrosion are shown separately but in reality would probably be done in parallel. Scientifically validated and accepted SAR approaches shall be used. The SAR analysis may identify serious eye damage, corrosion and irritation potential for both skin and eye effects:

(i) Step 2a - reliable determination of eye irritancy only by theoretical evaluations - in most cases it will only be appropriate for substances that are homologous to agents with very well known properties;

(ii) Step 2c - theoretical evaluation of skin corrosivity - skin corrosive substances shall be considered as leading to serious damage to the eyes as well (Category 1).

Step 3: pH extremes like ≤ 2 and ≥ 11.5 may indicate strong local effects, especially in combination with assessment of acid or alkaline reserve, substances exhibiting such physico-chemical properties should be considered as leading to serious damage to eyes (Category 1).

Step 4: All attainable information shall be used, including human experience.

Step 5: These must be scientifically validated, alternative methods for the assessment of eye irritation/ or serious damage to eyes (e.g. irreversible corneal opacity)

Step 6: At present this step seems not to be achievable in the near future. If such methods are developed, they must be scientifically, validated alternative methods for the reliable assessment of (reversible) eye irritation.

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A.3.4 Classification Criteria for Mixtures

A.3.4.1 Classification of Mixtures When Data Are Available for the Complete Mixture

A.3.4.1.1 The mixture will be classified using the criteria for substances, and taking into account the testing and evaluation strategies used to develop data for these hazard classes.

A.3.4.1.2 Unlike other hazard classes, there are alternative tests available for skin corrosivity of certain types of chemicals that can give an accurate result for classification purposes, as well as being simple and relatively inexpensive to perform. When considering testing of the mixture, manufacturers are encouraged to use a tiered weight of evidence strategy as included in the criteria for classification of substances for skin corrosion and serious eye damage and eye irritation to help ensure an accurate classification, as well as avoid unnecessary animal testing. A mixture is considered to cause serious eye damage (Eye Category 1) if it has a pH ≤ 2 or ≥ 11.5. If consideration of alkali/acid reserve suggests the substance or mixture may not have the potential to cause serious eye damage despite the low or high pH value, then further testing needs to be carried out to confirm this, preferably by use of an appropriate validated *in vitro* test.

A.3.4.2 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

A.3.4.2.1 Where the mixture itself has not been tested to determine its skin corrosivity or potential to cause serious eye damage or irritation, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data will be used in accordance with the following bridging principles, as found in paragraph A.0.5 of this Appendix: Dilution, Batching, Concentration of mixtures, Interpolation within one toxicity category, Substantially similar mixtures, and Aerosols.

A.3.4.3 Classification of Mixtures When Data Are Available for All Ingredients or Only for Some Ingredients of the Mixture

A.3.4.3.1 In order to make use of all available data for purposes of classifying the eye irritation/serious eye damaging properties of the mixtures, the following assumption has been made and is applied where appropriate in the tiered approach:

The ''relevant ingredients'' of a mixture are those which are present in concentrations ≥ 1% (w/w for solids, liquids, dusts, mists and vapours and v/v for gases), unless there is a presumption (*e.g.,* in the case of corrosive ingredients) that an ingredient present at a concentration < 1% can still be relevant for classifying the mixture for eye irritation/serious eye damage.

A.3.4.3.2 In general, the approach to classification of mixtures as eye irritant or seriously damaging to the eye when data are available on the ingredients, but not on the mixture as a whole, is based on the theory of additivity, such that each corrosive or irritant ingredient contributes to the overall irritant or corrosive properties of the mixture in proportion to its potency and concentration. A weighting factor of 10 is used for corrosive ingredients when they are present at a concentration below the concentration limit for classification with Category 1, but are at a concentration that will contribute to the classification of the mixture as an irritant.

The mixture is classified as seriously damaging to the eye or eye irritant when the sum of the concentrations of such ingredients exceeds a threshold cut-off value/concentration limit.

A.3.4.3.3 Table A.3.3 provides the cut-off value/concentration limits to be used to determine if the mixture should be classified an irritant or as seriously damaging to the eye.

A.3.4.3.4 Particular care must be taken when classifying certain types of chemicals such as acids and bases, inorganic salts, aldehydes, phenols, and surfactants. The approach explained in A.3.4.3.1 and A.3.4.3.2 might not work given that many of such substances are corrosive or irritant at concentrations < 1%. For mixtures containing strong acids or bases, the pH should be used as classification criteria (see A.3.4.1) since pH will be a better indicator of serious eye damage than the concentration limits of Table A.3.3. A mixture containing corrosive or irritant ingredients that cannot be classified based on the additivity approach applied in Table A.3.3 due to chemical characteristics that make this approach unworkable, should be classified as Eye Category 1 if it contains ≥ 1% of a corrosive ingredient and as Eye Category 2 when it contains ≥ 3% of an irritant ingredient. Classification of mixtures with ingredients for which the approach in Table A.3.3 does not apply is summarized in Table A.3.4.

A.3.4.3.5 On occasion, reliable data may show that the reversible/irreversible eye effects of an ingredient will not be evident when present at a level above the generic cut-off values/concentration limits mentioned in Tables A.3.3 and A.3.4. In these cases the mixture could be classified according to those data (see also A.0.4.3 *Use of concentration limits*). On occasion, when it is expected that the skin corrosion/irritation or the reversible/irreversible eye effects of an ingredient will not be evident when present at a level above the generic concentration/cut-off levels mentioned in Tables A.3.3 and A.3.4, testing of the mixture may be considered. In those cases, the tiered weight of evidence strategy should be applied as referred to in section A.3.3, Figure A.3.1 and explained in detail in this chapter.

A.3.4.3.6 If there are data showing that (an) ingredient(s) may be corrosive or irritant at a concentration of < 1% (corrosive) or < 3% (irritant), the mixture should be classified accordingly (see also paragraph A.0.4.3,*Use of concentration limits*).

TABLE A.3.3—CONCENTRATION OF INGREDIENTS OF A MIXTURE CLASSIFIED AS SKIN CATEGORY 1 AND/OR EYE CATEGORY 1 OR 2 THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURES AS HAZARDOUS TO THE EYE

Sum of ingredients classified as:	Concentration triggering classification of a mixture as:	
	Irreversible eye effects	Reversible eye effects
	Category 1	Category 2
Eye or skin Category 1	≥ 3%	≥ 1% but < 3%.
Eye Category 2		≥ 10%.
(10 × eye Category 1) + eye Category 2		≥ 10%.
Skin Category 1 + eye Category 1	≥ 3%	≥ 1% but < 3%.

TABLE A.3.3—CONCENTRATION OF INGREDIENTS OF A MIXTURE CLASSIFIED AS SKIN CATEGORY 1 AND/OR EYE CATEGORY 1 OR 2 THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURES AS HAZARDOUS TO THE EYE—Continued

Sum of ingredients classified as:	Concentration triggering classification of a mixture as:	
	Irreversible eye effects	Reversible eye effects
	Category 1	Category 2
10 × (skin Category 1 + eye Category 1) + eye Category 2	.....	≥ 10%.

TABLE A.3.4—CONCENTRATION OF INGREDIENTS OF A MIXTURE FOR WHICH THE ADDITIVITY APPROACH DOES NOT APPLY, THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE AS HAZARDOUS TO THE EYE

Ingredient:	Concentration	Mixture classified as: Eye
Acid with pH ≤ 2	≥ 1%	Category 1.
Base with pH ≥ 11.5	≥ 1%	Category 1.
Other corrosive (Category 1) ingredients for which additivity does not apply	≥ 1%	Category 1.
Other irritant (Category 2) ingredients for which additivity does not apply, including acids and bases	≥ 3%	Category 2.

A.4 RESPIRATORY OR SKIN SENSITIZATION

A.4.1 Definitions and General Considerations

A.4.1.1 *Respiratory sensitizer* means a chemical that will lead to hypersensitivity of the airways following inhalation of the chemical.

Skin sensitizer means a chemical that will lead to an allergic response following skin contact.

A.4.1.2 For the purpose of this chapter, sensitization includes two phases: The first phase is induction of specialized immunological memory in an individual by exposure to an allergen. The second phase is elicitation, *i.e.,* production of a cell-mediated or antibody-mediated allergic response by exposure of a sensitized individual to an allergen.

A.4.1.3 For respiratory sensitization, the pattern of induction followed by elicitation phases is shared in common with skin sensitization. For skin sensitization, an induction phase is required in which the immune system learns to react; clinical symptoms can then arise when subsequent exposure is sufficient to elicit a visible skin reaction (elicitation phase). As a consequence, predictive tests usually follow this pattern in which there is an induction phase, the response to which is measured by a standardized elicitation phase, typically involving a patch test. The local lymph node assay is the exception, directly measuring the induction response. Evidence of skin sensitization in humans normally is assessed by a diagnostic patch test.

A.4.1.4 Usually, for both skin and respiratory sensitization, lower levels are necessary for elicitation than are required for induction.

A.4.1.5 The hazard class ''respiratory or skin sensitization'' is differentiated into:

(a) Respiratory sensitization; and

(b) Skin sensitization

A.4.2 Classification Criteria for Substances

A.4.2.1 *Respiratory Sensitizers*

A.4.2.1.1 *Hazard Categories*

A.4.2.1.1.1 Effects seen in either humans or animals will normally justify classification in a weight of evidence approach for respiratory sensitizers. Substances may be allocated to one of the two sub-categories 1A or 1B using a weight of evidence approach in accordance with the criteria given in Table A.4.1 and on the basis of reliable and good quality evidence from human cases or epidemiological studies and/or observations from appropriate studies in experimental animals.

TABLE A.4.1—HAZARD CATEGORY AND SUB-CATEGORIES FOR RESPIRATORY SENSITIZERS

Category 1:	Respiratory sensitizer
	A substance is classified as a respiratory sensitizer: (a) if there is evidence in humans that the substance can lead to specific respiratory hypersensitivity and/or (b) if there are positive results from an appropriate animal test.[19]
Sub-category 1A	Substances showing a high frequency of occurrence in humans; or a probability of occurrence of a high sensitization rate in humans based on animal or other tests.[1] Severity of reaction may also be considered.
Sub-category 1B	Substances showing a low to moderate frequency of occurrence in humans; or a probability of occurrence of a low to moderate sensitization rate in humans based on animal or other tests.[1] Severity of reaction may also be considered.

A.4.2.1.2 *Human evidence*

A.4.2.1.2.1 Evidence that a substance can lead to specific respiratory hypersensitivity will normally be based on human experience. In this context, hypersensitivity is normally seen as asthma, but other hypersensitivity reactions such as rhinitis/conjunctivitis and alveolitis are also considered. The condition will have the clinical character of an allergic reaction. However, immunological mechanisms do not have to be demonstrated.

A.4.2.1.2.2 When considering the human evidence, it is necessary that in addition to the evidence from the cases, the following be taken into account:

(a) the size of the population exposed;

(b) the extent of exposure.

A.4.2.1.2.3 The evidence referred to above could be:

(a) clinical history and data from appropriate lung function tests related to exposure to the substance, confirmed by other supportive evidence which may include:

(i) *in vivo* immunological test (*e.g.,* skin prick test);

(ii) *in vitro* immunological test (*e.g.,* serological analysis);

[19] At this writing, recognized and validated animal models for the testing of respiratory hypersensitivity are not available. Under certain circumstances, data from animal studies may provide valuable information in a weight of evidence assessment.

(iii) studies that may indicate other specific hypersensitivity reactions where immunological mechanisms of action have not been proven, *e.g.,* repeated low-level irritation, pharmacologically mediated effects;

(iv) a chemical structure related to substances known to cause respiratory hypersensitivity;

(b) data from positive bronchial challenge tests with the substance conducted according to accepted guidelines for the determination of a specific hypersensitivity reaction.

A.4.2.1.2.4 Clinical history should include both medical and occupational history to determine a relationship between exposure to a specific substance and development of respiratory hypersensitivity. Relevant information includes aggravating factors both in the home and workplace, the onset and progress of the disease, family history and medical history of the patient in question. The medical history should also include a note of other allergic or airway disorders from childhood and smoking history.

A.4.2.1.2.5 The results of positive bronchial challenge tests are considered to provide sufficient evidence for classification on their own. It is, however, recognized that in practice many of the examinations listed above will already have been carried out.

A.4.2.1.3 *Animal Studies*

A.4.2.1.3.1 Data from appropriate animal studies [1] which may be indicative of the potential of a substance to cause sensitization by inhalation in humans [20] may include:

(a) measurements of Immunoglobulin E (IgE) and other specific immunological parameters, for example in mice;

(b) specific pulmonary responses in guinea pigs.

A.4.2.2 Skin Sensitizers

A.4.2.2.1 *Hazard Categories*

A.4.2.2.1.1 Effects seen in either humans or animals will normally justify classification in a weight of evidence approach for skin sensitizers. Substances may be allocated to one of the two sub-categories 1A or 1B using a weight of evidence approach in accordance with the criteria given in Table A.4.2 and on the basis of reliable and good quality evidence from human cases or epidemiological studies and/or observations from appropriate studies in experimental animals according to the guidance values provided in A.4.2.2.2.1 and A.4.2.2.3.2 for sub-category 1A and in A.4.2.2.2.2 and A.4.2.2.3.3 for sub-category 1B.

TABLE A.4.2—HAZARD CATEGORY AND SUB-CATEGORIES FOR SKIN SENSITIZERS

Category 1:	Skin sensitizer
	A substance is classified as a skin sensitizer: (a) if there is evidence in humans that the substance can lead to sensitization by skin contact in a substantial number of persons, or (b) if there are positive results from an appropriate animal test.
Sub-category 1A	Substances showing a high frequency of occurrence in humans and/or a high potency in animals can be presumed to have the potential to produce significant sensitization in humans. Severity of reaction may also be considered.
Sub-category 1B	Substances showing a low to moderate frequency of occurrence in humans and/or a low to moderate potency in animals can be presumed to have the potential to produce sensitization in humans. Severity of reaction may also be considered.

A.4.2.2.2 Human Evidence

A.4.2.2.2.1 Human evidence for sub-category 1A may include:

(a) positive responses at ≤500 μg/cm^2 (HRIPT, HMT—induction threshold);

(b) diagnostic patch test data where there is a relatively high and substantial incidence of reactions in a defined population in relation to relatively low exposure;

(c) other epidemiological evidence where there is a relatively high and substantial incidence of allergic contact dermatitis in relation to relatively low exposure.

A.4.2.2.2.2 Human evidence for sub-category 1B may include:

(a) positive responses at >500 μg/cm^2 (HRIPT, HMT—induction threshold);

(b) diagnostic patch test data where there is a relatively low but substantial incidence of reactions in a defined population in relation to relatively high exposure;

(c) other epidemiological evidence where there is a relatively low but substantial incidence of allergic contact dermatitis in relation to relatively high exposure.

A.4.2.2.3 *Animal Studies*

A.4.2.2.3.1 For Category 1, when an adjuvant type test method for skin sensitization is used, a response of at least 30% of the animals is considered as positive. For a non-adjuvant Guinea pig test method a response of at least 15% of the animals is considered positive. For Category 1, a stimulation index of three or more is considered a positive response in the local lymph node assay.[21]

A.4.2.2.3.2 Animal test results for sub-category 1A can include data with values indicated in Table A.4.3.

TABLE A.4.3—ANIMAL TEST RESULTS FOR SUB-CATEGORY 1A

Assay	Criteria
Local lymph node assay	EC3 value ≤2%.
Guinea pig maximization test	≥30% responding at ≤0.1% intradermal induction dose *or* ≥60% responding at >0.1% to ≤1% intradermal induction dose.
Buehler assay	≥15% responding at ≤0.2% topical induction dose *or* ≥60% responding at >0.2% to ≤20% topical induction dose.

A.4.2.2.3.3 Animal test results for sub-category 1B can include data with values indicated in Table A.4.4 below:

[1] At this writing, recognized and validated animal models for the testing of respiratory hypersensitivity are not available. Under certain circumstances, data from animal studies may provide valuable information in a weight of evidence assessment.

[20] The mechanisms by which substances induce symptoms of asthma are not yet fully known. For preventative measures, these substances are considered respiratory sensitizers. However, if on the basis of the evidence, it can be demonstrated that these substances induce symptoms of asthma by irritation only in people with bronchial hyperreactivity, they should not be considered as respiratory sensitizers.

[21] Test methods for skin sensitization are described in OECD Guideline 406 (the Guinea Pig Maximization test and the Buehler guinea pig test) and Guideline 429 (Local Lymph Node Assay). Other methods may be used provided that they are scientifically validated. The Mouse Ear Swelling Test (MEST), appears to be a reliable screening test to detect moderate to strong sensitizers, and can be used, in accordance with professional judgment, as a first stage in the assessment of skin sensitization potential.

TABLE A.4.4—ANIMAL TEST RESULTS FOR SUB-CATEGORY 1B

Assay	Criteria
Local lymph node assay.	EC3 value >2%.
Guinea pig maximization test.	≥30% to <60% responding at >0.1% to ≤1% intradermal induction dose or ≥30% responding at >1% intradermal induction dose.
Buehler assay ...	≥15% to <60% responding at >0.2% to ≤20% topical induction dose or ≥15% responding at >20% topical induction dose.

A.4.2.2.4 *Specific Considerations*

A.4.2.2.4.1 For classification of a substance, evidence should include any or all of the following using a weight of evidence approach:

(a) Positive data from patch testing, normally obtained in more than one dermatology clinic;

(b) Epidemiological studies showing allergic contact dermatitis caused by the substance. Situations in which a high proportion of those exposed exhibit characteristic symptoms are to be looked at with special concern, even if the number of cases is small;

(c) Positive data from appropriate animal studies;

(d) Positive data from experimental studies in man (see paragraph A.0.2.6 of this Appendix);

(e) Well documented episodes of allergic contact dermatitis, normally obtained in more than one dermatology clinic;

(f) Severity of reaction may also be considered.

A.4.2.2.4.2 Evidence from animal studies is usually much more reliable than evidence from human exposure. However, in cases where evidence is available from both sources, and there is conflict between the results, the quality and reliability of the evidence from both sources must be assessed in order to resolve the question of classification on a case-by-case basis. Normally, human data are not generated in controlled experiments with volunteers for the purpose of hazard classification but rather as part of risk assessment to confirm lack of effects seen in animal tests. Consequently, positive human data on skin sensitization are usually derived from case-control or other, less defined studies. Evaluation of human data must, therefore, be carried out with caution as the frequency of cases reflect, in addition to the inherent properties of the substances, factors such as the exposure situation, bioavailability, individual predisposition and preventive measures taken. Negative human data should not normally be used to negate positive results from animal studies. For both animal and human data, consideration should be given to the impact of vehicle.

A.4.2.2.4.3 If none of the above-mentioned conditions are met, the substance need not be classified as a skin sensitizer. However, a combination of two or more indicators of skin sensitization, as listed below, may alter the decision. This shall be considered on a case-by-case basis.

(a) Isolated episodes of allergic contact dermatitis;

(b) Epidemiological studies of limited power, *e.g.,* where chance, bias or confounders have not been ruled out fully with reasonable confidence;

(c) Data from animal tests, performed according to existing guidelines, which do not meet the criteria for a positive result described in A.4.2.2.3, but which are sufficiently close to the limit to be considered significant;

(d) Positive data from non-standard methods;

(e) Positive results from close structural analogues.

A.4.2.2.4.4 Immunological Contact Urticaria

A.4.2.2.4.4.1 Substances meeting the criteria for classification as respiratory sensitizers may, in addition, cause immunological contact urticaria. Consideration shall be given to classifying these substances as skin sensitizers.

A.4.2.2.4.4.2 Substances which cause immunological contact urticaria without meeting the criteria for respiratory sensitizers shall be considered for classification as skin sensitizers.

A.4.2.2.4.4.3 There is no recognized animal model available to identify substances which cause immunological contact urticaria. Therefore, classification will normally be based on human evidence, similar to that for skin sensitization.

A.4.3 Classification Criteria for Mixtures

A.4.3.1 Classification of Mixtures When Data are Available for the Complete Mixture

When reliable and good quality evidence, as described in the criteria for substances, from human experience or appropriate studies in experimental animals, is available for the mixture, then the mixture can be classified by weight of evidence evaluation of these data. Care must be exercised in evaluating data on mixtures that the dose used does not render the results inconclusive.

A.4.3.2 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

A.4.3.2.1 Where the mixture itself has not been tested to determine its sensitizing properties, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data will be used in accordance with the following agreed bridging principles as found in paragraph A.0.5 of this Appendix: Dilution, Batching, Concentration of mixtures, Interpolation, Substantially similar mixtures, and Aerosols.

A.4.3.3 Classification of Mixtures When Data are Available for all Ingredients or Only for Some Ingredients of the Mixture

The mixture shall be classified as a respiratory or skin sensitizer when at least one ingredient has been classified as a respiratory or skin sensitizer and is present at or above the appropriate cut-off value/concentration limit for the specific endpoint as shown in Table A.4.5.

TABLE A.4.5—CUT-OFF VALUES/CONCENTRATION LIMITS OF INGREDIENTS OF A MIXTURE CLASSIFIED AS EITHER RESPIRATORY SENSITIZERS OR SKIN SENSITIZERS THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE

Ingredient classified as:	Cut-off values/concentration limits triggering classification of a mixture as:		
	Respiratory sensitizer Category 1		Skin sensitizer Category 1
	Solid/Liquid	Gas	All physical states
Respiratory sensitizer, Category 1	≥0.1%	≥0.1%.	
Respiratory sensitizer, Sub-category 1A	≥0.1%	≥0.1%.	
Respiratory sensitizer, Sub-category 1B	≥1.0%	≥0.2%.	
Skin sensitizer, Category 1			≥0.1%.

TABLE A.4.5—CUT-OFF VALUES/CONCENTRATION LIMITS OF INGREDIENTS OF A MIXTURE CLASSIFIED AS EITHER RESPIRATORY SENSITIZERS OR SKIN SENSITIZERS THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE—Continued

Ingredient classified as:	Cut-off values/concentration limits triggering classification of a mixture as:		
	Respiratory sensitizer Category 1		Skin sensitizer Category 1
	Solid/Liquid	Gas	All physical states
Skin sensitizer, Sub-category 1A	.....	.....	≥0.1%.
Skin sensitizer, Sub-category 1B	.....	.....	≥1.0%.

A.5 GERM CELL MUTAGENICITY

A.5.1 Definitions and General Considerations

A.5.1.1 A *mutation* is defined as a permanent change in the amount or structure of the genetic material in a cell. The term *mutation* applies both to heritable genetic changes that may be manifested at the phenotypic level and to the underlying DNA modifications when known (including, for example, specific base pair changes and chromosomal translocations). The term *mutagenic* and *mutagen* will be used for agents giving rise to an increased occurrence of mutations in populations of cells and/or organisms.

A.5.1.2 The more general terms *genotoxic* and *genotoxicity* apply to agents or processes which alter the structure, information content, or segregation of DNA, including those which cause DNA damage by interfering with normal replication processes, or which in a non-physiological manner (temporarily) alter its replication. Genotoxicity test results are usually taken as indicators for mutagenic effects.

A.5.1.3 This hazard class is primarily concerned with chemicals that may cause mutations in the germ cells of humans that can be transmitted to the progeny. However, mutagenicity/genotoxicity tests *in vitro* and in mammalian somatic cells *in vivo* are also considered in classifying substances and mixtures within this hazard class.

A.5.2 Classification Criteria for Substances

A.5.2.1 The classification system provides for two different categories of germ cell mutagens to accommodate the weight of evidence available. The two-category system is described in the Figure A.5.1.

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Figure A.5.1: Hazard categories for germ cell mutagens

CATEGORY 1: **Substances known to induce heritable mutations or to be regarded as if they induce heritable mutations in the germ cells of humans**

Category 1A: **Substances known to induce heritable mutations in germ cells of humans**

Positive evidence from human epidemiological studies.

Category 1B: **Substances which should be regarded as if they induce heritable mutations in the germ cells of humans**

(a) Positive result(s) from in vivo heritable germ cell mutagenicity tests in mammals; or

(b) Positive result(s) from in vivo somatic cell mutagenicity tests in mammals, in combination with some evidence that the substance has potential to cause mutations to germ cells. This supporting evidence may, for example, be derived from mutagenicity/genotoxic tests in germ cells in vivo, or by demonstrating the ability of the substance or its metabolite(s) to interact with the genetic material of germ cells; or

(c) Positive results from tests showing mutagenic effects in the germ cells of humans, without demonstration of transmission to progeny; for example, an increase in the frequency of aneuploidy in sperm cells of exposed people.

CATEGORY 2: **Substances which cause concern for humans owing to the possibility that they may induce heritable mutations in the germ cells of humans**

Positive evidence obtained from experiments in mammals and/or in some cases from *in vitro* experiments, obtained from:

(a) Somatic cell mutagenicity tests in vivo, in mammals; or

(b) Other in vivo somatic cell genotoxicity tests which are supported by positive results from in vitro mutagenicity assays.

Note: Substances which are positive in in vitro mammalian mutagenicity assays, and which also show chemical structure activity relationship to known germ cell mutagens, should be considered for classification as Category 2 mutagens.

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A.5.2.2 Specific considerations for classification of substances as germ cell mutagens:

A.5.2.2.1 To arrive at a classification, test results are considered from experiments determining mutagenic and/or genotoxic effects in germ and/or somatic cells of exposed animals. Mutagenic and/or genotoxic effects determined in *in vitro* tests shall also be considered.

A.5.2.2.2 The system is hazard based, classifying chemicals on the basis of their intrinsic ability to induce mutations in germ cells. The scheme is, therefore, not meant for the (quantitative) risk assessment of chemical substances.

A.5.2.2.3 Classification for heritable effects in human germ cells is made on the basis of scientifically validated tests.[1] Evaluation of the test results shall be done using expert judgment and all the available evidence shall be weighed for classification.

A.5.2.2.4 The classification of substances shall be based on the total weight of evidence available, using expert judgment. In those instances where a single well-conducted test is used for classification, it shall provide clear and unambiguously positive results. The relevance of the route of exposure used in the study of the substance compared to the route of human exposure should also be taken into account.

A.5.3 Classification Criteria for Mixtures [22]

A.5.3.1 Classification of Mixtures When Data Are Available for All Ingredients or Only for Some Ingredients of the Mixture

A.5.3.1.1 Classification of mixtures shall be based on the available test data for the individual ingredients of the mixture using cut-off values/concentration limits for the ingredients classified as germ cell mutagens.

A.5.3.1.2 The mixture will be classified as a mutagen when at least one ingredient has been classified as a Category 1A, Category 1B or Category 2 mutagen and is present at or above the appropriate cut-off value/concentration limit as shown in Table A.5.1 below for Category 1 and 2 respectively.

[22] It should be noted that the classification criteria for the GHS usually include a tiered scheme in which test data available on the complete mixture are considered as the first tier in the evaluation, followed by the applicable bridging principles, and lastly, cut-off values/concentration or additivity. However, this approach is not used for Germ Cell Mutagenicity. These criteria for Germ Cell Mutagenicity consider the cut-off levels as the primary tier and allow the classification to be modified only on a case-by-case evaluation based on available test data for the mixture as a whole.

TABLE A.5.1—CUT-OFF VALUES/CONCENTRATION LIMITS OF INGREDIENTS OF A MIXTURE CLASSIFIED AS GERM CELL MUTAGENS THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE

Ingredient classified as:	Cut-off/concentration limits triggering classification of a mixture as:	
	Category 1 mutagen	Category 2 mutagen
Category 1A/B mutagen	≥ 0.1%..	
Category 2 mutagen		≥ 1.0%.

Note: The cut-off values/concentration limits in the table above apply to solids and liquids (w/w units) as well as gases (v/v units).

A.5.3.2 Classification of Mixtures When Data Are Available for the Mixture Itself

The classification may be modified on a case-by-case basis based on the available test data for the mixture as a whole. In such cases, the test results for the mixture as a whole must be shown to be conclusive taking into account dose and other factors such as duration, observations and analysis (*e.g.* statistical analysis, test sensitivity) of germ cell mutagenicity test systems.

A.5.3.3 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

A.5.3.3.1 Where the mixture itself has not been tested to determine its germ cell mutagenicity hazard, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data will be used in accordance with the following bridging principles as found in paragraph A.0.5 of this Appendix: Dilution, Batching, and Substantially similar mixtures.

Examples of *in vivo* heritable germ cell mutagenicity tests are:

- Rodent dominant lethal mutation test (OECD 478)
- Mouse heritable translocation assay (OECD 485)
- Mouse specific locus test

Examples of *in vivo* somatic cell mutagenicity tests are:

- Mammalian bone marrow chromosome aberration test (OECD 475)
- Mouse spot test (OECD 484)
- Mammalian erythrocyte micronucleus test (OECD 474)

Examples of mutagenicity/genotoxicity tests in germ cells are:

(a) Mutagenicity tests:

a. Mammalian spermatogonial chromosome aberration test (OECD 483)

b. Spermatid micronucleus assay

(b) Genotoxicity tests:

a. Sister chromatid exchange analysis in spermatogonia

b. Unscheduled DNA synthesis test (UDS) in testicular cells

Examples of genotoxicity tests in somatic cells are:

- Liver Unscheduled DNA Synthesis (UDS) *in vivo* (OECD 486)
- Mammalian bone marrow Sister Chromatid Exchanges (SCE)

Examples of *in vitro* mutagenicity tests are:

- *In vitro* mammalian chromosome aberration test (OECD 473)
- *In vitro* mammalian cell gene mutation test (OECD 476)
- Bacterial reverse mutation tests (OECD 471)

As new, scientifically validated, tests arise, these may also be used in the total weight of evidence to be considered.

A.6 CARCINOGENICITY

A.6.1 Definitions

Carcinogen means a substance or a mixture of substances which induce cancer or increase its incidence. Substances and mixtures which have induced benign and malignant tumors in well-performed experimental studies on animals are considered also to be presumed or suspected human carcinogens unless there is strong evidence that the mechanism of tumor formation is not relevant for humans.

Classification of a substance or mixture as posing a carcinogenic hazard is based on its inherent properties and does not provide information on the level of the human cancer risk which the use of the substance or mixture may represent.

A.6.2 Classification Criteria for Substances [23]

A.6.2.1 For the purpose of classification for carcinogenicity, substances are allocated to one of two categories based on strength of evidence and additional weight of evidence considerations. In certain instances, route-specific classification may be warranted.

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[23] See Non-mandatory Appendix F for further guidance regarding hazard classification for carcinogenicity. This appendix is consistent with the GHS and is provided as guidance excerpted from monographs of the International Agency for Research on Cancer (IARC) Monographs programme on the evaluation of the strength and evidence of carcinogenic risks to humans.

Figure A.6.1: Hazard categories for carcinogens

CATEGORY 1: Known or presumed human carcinogens

The classification of a substance as a Category 1 carcinogen is done on the basis of epidemiological and/or animal data. This classification is further distinguished on the basis of whether the evidence for classification is largely from human data (Category 1A) or from animal data (Category 1B):

Category 1A: Known to have carcinogenic potential for humans. Classification in this category is largely based on human evidence.

Category 1B: Presumed to have carcinogenic potential for humans. Classification in this category is largely based on animal evidence.

The classification of a substance in Category 1A and 1B is based on strength of evidence together with weight of evidence considerations (see paragraph A.6.2.5). Such evidence may be derived from:

- human studies that establish a causal relationship between human exposure to a substance and the development of cancer (known human carcinogen); or
- animal experiments for which there is sufficient evidence to demonstrate animal carcinogenicity (presumed human carcinogen).

In addition, on a case by case basis, scientific judgment may warrant a decision of presumed human carcinogenicity derived from studies showing limited evidence of carcinogenicity in humans together with limited evidence of carcinogenicity in experimental animals.

CATEGORY 2: Suspected human carcinogens

The classification of a substance in Category 2 is done on the basis of evidence obtained from human and/or animal studies, but which is not sufficiently convincing to place the substance in Category 1A or B. This classification is based on strength of evidence together with weight of evidence considerations (see paragraph A.6.2.5). Such evidence may be from either limited evidence of carcinogenicity in human studies or from limited evidence of carcinogenicity in animal studies. Positive results in any carcinogenicity study performed according to good scientific principles with statistically significant results qualifies for referencing the chemical as, at the least a Category 2 carcinogen.

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A.6.2.2 Classification as a carcinogen is made on the basis of evidence from reliable and acceptable methods, and is intended to be used for substances which have an intrinsic property to produce such toxic effects. The evaluations are to be based on all existing data, peer-reviewed published studies and additional data accepted by regulatory agencies.

A.6.2.3 *Carcinogen classification* is a one-step, criterion-based process that involves two interrelated determinations: Evaluations of strength of evidence and consideration of all other relevant information to place substances with human cancer potential into hazard categories.

A.6.2.4 *Strength of evidence* involves the enumeration of tumors in human and animal studies and determination of their level of statistical significance. Sufficient human evidence demonstrates causality between human exposure and the development of cancer, whereas sufficient evidence in animals shows a causal relationship between the agent and an increased incidence of tumors. Limited evidence in humans is demonstrated by a positive association between exposure and cancer, but a causal relationship cannot be stated. Limited evidence in animals is provided when data suggest a carcinogenic effect, but are less than sufficient. (Guidance on consideration of important factors in the classification of carcinogenicity and a more detailed description of the terms ''limited'' and ''sufficient'' have been developed by the International Agency for Research on Cancer (IARC) and are provided in Appendix F.)

A.6.2.5 *Weight of evidence:* Beyond the determination of the strength of evidence for carcinogenicity, a number of other factors should be considered that influence the overall likelihood that an agent may pose a carcinogenic hazard in humans. The full list of factors that influence this determination is very lengthy, but some of the important ones are considered here.

A.6.2.5.1 These factors can be viewed as either increasing or decreasing the level of concern for human carcinogenicity. The relative emphasis accorded to each factor depends upon the amount and coherence of evidence bearing on each. Generally there is a requirement for more complete information to decrease than to increase the level of concern. Additional considerations should be used in evaluating the tumor findings and the other factors in a case-by-case manner.

A.6.2.5.2 Some important factors which may be taken into consideration, when assessing the overall level of concern are:

(a) Tumor type and background incidence;

(b) Multisite responses;

(c) Progression of lesions to malignancy;

(d) Reduced tumor latency;

Additional factors which may increase or decrease the level of concern include:

(e) Whether responses are in single or both sexes;

(f) Whether responses are in a single species or several species;

(g) Structural similarity or not to a substance(s) for which there is good evidence of carcinogenicity;

(h) Routes of exposure;

(i) Comparison of absorption, distribution, metabolism and excretion between test animals and humans;

(j) The possibility of a confounding effect of excessive toxicity at test doses; and,

(k) Mode of action and its relevance for humans, such as mutagenicity, cytotoxicity with growth stimulation, mitogenesis, immunosuppression.

Mutagenicity: It is recognized that genetic events are central in the overall process of cancer development. Therefore evidence of mutagenic activity in vivo may indicate that a substance has a potential for carcinogenic effects.

A.6.2.5.3 A substance that has not been tested for carcinogenicity may in certain instances be classified in Category 1A, Category 1B, or Category 2 based on tumor data from a structural analogue together with substantial support from consideration of other important factors such as formation of common significant metabolites, *e.g.*, for benzidine congener dyes.

A.6.2.5.4 The classification should also take into consideration whether or not the substance is absorbed by a given route(s); or whether there are only local tumors at the site of administration for the tested route(s), and adequate testing by other major route(s) show lack of carcinogenicity.

A.6.2.5.5 It is important that whatever is known of the physico-chemical, toxicokinetic and toxicodynamic properties of the substances, as well as any available relevant information on chemical analogues, *i.e.*, structure activity relationship, is taken into consideration when undertaking classification.

A.6.3 Classification Criteria for Mixtures [24]

A.6.3.1 The mixture shall be classified as a carcinogen when at least one ingredient has been classified as a Category 1 or Category 2 carcinogen and is present at or above the appropriate cut-off value/concentration limit as shown in Table A.6.1.

TABLE A.6.1—CUT-OFF VALUES/CONCENTRATION LIMITS OF INGREDIENTS OF A MIXTURE CLASSIFIED AS CARCINOGEN THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE

Ingredient classified as:	Category 1 carcinogen	Category 2 carcinogen
Category 1 carcinogen	≥ 0.1%	
Category 2 carcinogen		≥ 0.1% (note 1).

Note 1: If a Category 2 carcinogen ingredient is present in the mixture at a concentration between 0.1% and 1%, information is required on the SDS for a product, however, a label warning is optional If a Category 2 carcinogen ingredient is present in the mixture at a concentration of ≥ 1%, both an SDS and a label is required and the information must be included on each.

A.6.3.2 Classification of Mixtures When Data Are Available for the Complete Mixture

A mixture may be classified based on the available test data for the mixture as a whole. In such cases, the test results for the mixture as a whole must be shown to be conclusive taking into account dose and other factors such as duration, observations and analysis (*e.g.*, statistical analysis, test sensitivity) of carcinogenicity test systems.

A.6.3.3 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

Where the mixture itself has not been tested to determine its carcinogenic hazard, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data will be used in accordance with the following bridging principles as found in paragraph A.0.5 of this Appendix: Dilution; Batching; and Substantially similar mixtures.

A.7 REPRODUCTIVE TOXICITY

A.7.1 Definitions and General Considerations

A.7.1.1 *Reproductive toxicity* includes *adverse effects on sexual function and fertility* in adult males and females, as well as *adverse effects on development of the offspring.* Some reproductive toxic effects cannot be clearly assigned to either impairment of sexual function and fertility or to developmental toxicity. Nonetheless, chemicals with these effects shall be classified as reproductive toxicants.

For classification purposes, the known induction of genetically based inheritable effects in the offspring is addressed in *Germ cell mutagenicity* (see A.5).

A.7.1.2 *Adverse effects on sexual function and fertility* means any effect of chemicals that interferes with reproductive ability or sexual capacity. This includes, but is not limited to, alterations to the female and male reproductive system, adverse effects on onset of puberty, gamete production and transport, reproductive cycle normality, sexual behaviour, fertility, parturition, pregnancy outcomes, premature reproductive senescence, or modifications in other functions that are dependent on the integrity of the reproductive systems.

A.7.1.3 *Adverse effects on development of the offspring* means any effect of chemicals which interferes with normal development of the conceptus either before or after birth, which is induced during pregnancy or results from parental exposure. These effects can be manifested at any point in the life span of the organism. The major manifestations of developmental toxicity include death of the developing organism, structural abnormality, altered growth and functional deficiency.

A.7.1.4 Adverse effects on or via lactation are also included in reproductive toxicity, but for classification purposes, such effects are treated separately (see A.7.2.1).

A.7.2 Classification Criteria for Substances

A.7.2.1 For the purpose of classification for reproductive toxicity, substances shall be classified in one of two categories in accordance with Figure A.7.1(a). Effects on sexual function and fertility, and on development, shall be considered. In addition, effects on lactation shall be classified in a separate hazard category in accordance with Figure A.7.1(b).

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[24] It should be noted that the classification criteria for the GHS usually include a tiered scheme in which test data available on the complete mixture are considered as the first tier in the evaluation, followed by the applicable bridging principles, and lastly, cut-off values/concentration or additivity. However, this approach is not used for Carcinogenicity. These criteria for Carcinogenicity consider the cut-off levels as the primary tier and allow the classification to be modified only on a case-by-case evaluation based on available test data for the mixture as a whole.

Figure A.7.1 (a): Hazard categories for reproductive toxicants

CATEGORY 1:	**Known or presumed human reproductive toxicant**
	Substance shall be classified in Category 1 for reproductive toxicity when they are known to have produced an adverse effect on sexual function and fertility or on development in humans or when there is evidence from animal studies, possibly supplemented with other information, to provide a strong presumption that the substance has the capacity to interfere with reproduction in humans. The classification of a substance is further distinguished on the basis of whether the evidence for classification is primarily from human data (Category 1A) or from animal data (Category 1B).
Category 1A:	**Known human reproductive toxicant**
	The classification of a substance in this category is largely based on evidence from humans.
Category 1B:	**Presumed human reproductive toxicant**
	The classification of a substance in this category is largely based on evidence from experimental animals. Data from animal studies shall provide sufficient evidence of an adverse effect on sexual function and fertility or on development in the absence of other toxic effects, or if occurring together with other toxic effects the adverse effect on reproduction is considered not to be a secondary non-specific consequence of other toxic effects. However, when there is mechanistic information that raises doubt about the relevance of the effect for humans, classification in Category 2 may be more appropriate.
CATEGORY 2:	**Suspected human reproductive toxicant**
	Substances shall be classified in Category 2 for reproductive toxicity when there is some evidence from humans or experimental animals, possibly supplemented with other information, of an adverse effect on sexual function and fertility, or on development, in the absence of other toxic effects, or if occurring together with other toxic effects the adverse effect on reproduction is considered not to be a secondary non-specific consequence of the other toxic effects, and where the evidence is not sufficiently convincing to place the substance in Category 1. For instance, deficiencies in the study may make the quality of evidence less convincing, and in view of this, Category 2 would be the more appropriate classification.

Figure A.7.1 (b): Hazard category for effects on or via lactation

EFFECTS ON OR VIA LACTATION
Effects on or via lactation shall be classified in a separate single category. Chemicals that are absorbed by women and have been shown to interfere with lactation or that may be present (including metabolites) in breast milk in amounts sufficient to cause concern for the health of a breastfed child, shall be classified to indicate this property hazardous to breastfed babies. This classification shall be assigned on the basis of:
(a) absorption, metabolism, distribution and excretion studies that indicate the likelihood the substance would be present in potentially toxic levels in breast milk; and/or
(b) results of one or two generation studies in animals which provide clear evidence of adverse effect in the offspring due to transfer in the milk or adverse effect on the quality of the milk; and/or
(c) human evidence indicating a hazard to babies during the lactation period.

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A.7.2.2 Basis of Classification

A.7.2.2.1 Classification is made on the basis of the criteria, outlined above, an assessment of the total weight of evidence, and the use of expert judgment. Classification as a reproductive toxicant is intended to be used for substances which have an intrinsic,

specific property to produce an adverse effect on reproduction and substances should not be so classified if such an effect is produced solely as a non-specific secondary consequence of other toxic effects.

A.7.2.2.2 In the evaluation of toxic effects on the developing offspring, it is important to consider the possible influence of maternal toxicity.

A.7.2.2.3 For human evidence to provide the primary basis for a Category 1A classification there must be reliable evidence of an adverse effect on reproduction in humans. Evidence used for classification shall be from well conducted epidemiological studies, if available, which include the use of appropriate controls, balanced assessment, and due consideration of bias or confounding factors. Less rigorous data from studies in humans may be sufficient for a Category 1A classification if supplemented with adequate data from studies in experimental animals, but classification in Category 1B may also be considered.

A.7.2.3 Weight of Evidence

A.7.2.3.1 Classification as a reproductive toxicant is made on the basis of an assessment of the total weight of evidence using expert judgment. This means that all available information that bears on the determination of reproductive toxicity is considered together. Included is information such as epidemiological studies and case reports in humans and specific reproduction studies along with sub-chronic, chronic and special study results in animals that provide relevant information regarding toxicity to reproductive and related endocrine organs. Evaluation of substances chemically related to the material under study may also be included, particularly when information on the material is scarce. The weight given to the available evidence will be influenced by factors such as the quality of the studies, consistency of results, nature and severity of effects, level of statistical significance for intergroup differences, number of endpoints affected, relevance of route of administration to humans and freedom from bias. Both positive and negative results are assembled together into a weight of evidence determination. However, a single, positive study performed according to good scientific principles and with statistically or biologically significant positive results may justify classification (see also A.7.2.2.3).

A.7.2.3.2 Toxicokinetic studies in animals and humans, site of action and mechanism or mode of action study results may provide relevant information, which could reduce or increase concerns about the hazard to human health. If it is conclusively demonstrated that the clearly identified mechanism or mode of action has no relevance for humans or when the toxicokinetic differences are so marked that it is certain that the hazardous property will not be expressed in humans then a chemical which produces an adverse effect on reproduction in experimental animals should not be classified.

A.7.2.3.3 In some reproductive toxicity studies in experimental animals the only effects recorded may be considered of low or minimal toxicological significance and classification may not necessarily be the outcome. These effects include, for example, small changes in semen parameters or in the incidence of spontaneous defects in the fetus, small changes in the proportions of common fetal variants such as are observed in skeletal examinations, or in fetal weights, or small differences in postnatal developmental assessments.

A.7.2.3.4 Data from animal studies shall provide sufficient evidence of specific reproductive toxicity in the absence of other systemic toxic effects. However, if developmental toxicity occurs together with other toxic effects in the dam (mother), the potential influence of the generalized adverse effects should be assessed to the extent possible. The preferred approach is to consider adverse effects in the embryo/fetus first, and then evaluate maternal toxicity, along with any other factors which are likely to have influenced these effects, as part of the weight of evidence. In general, developmental effects that are observed at maternally toxic doses should not be automatically discounted. Discounting developmental effects that are observed at maternally toxic doses can only be done on a case-by-case basis when a causal relationship is established or refuted.

A.7.2.3.5 If appropriate information is available it is important to try to determine whether developmental toxicity is due to a specific maternally mediated mechanism or to a non-specific secondary mechanism, like maternal stress and the disruption of homeostasis. Generally, the presence of maternal toxicity should not be used to negate findings of embryo/fetal effects, unless it can be clearly demonstrated that the effects are secondary non-specific effects. This is especially the case when the effects in the offspring are significant, *e.g.*, irreversible effects such as structural malformations. In some situations it is reasonable to assume that reproductive toxicity is due to a secondary consequence of maternal toxicity and discount the effects, for example if the chemical is so toxic that dams fail to thrive and there is severe inanition; they are incapable of nursing pups; or they are prostrate or dying.

A.7.2.4 Maternal Toxicity

A.7.2.4.1 Development of the offspring throughout gestation and during the early postnatal stages can be influenced by toxic effects in the mother either through non-specific mechanisms related to stress and the disruption of maternal homeostasis, or by specific maternally-mediated mechanisms. So, in the interpretation of the developmental outcome to decide classification for developmental effects it is important to consider the possible influence of maternal toxicity. This is a complex issue because of uncertainties surrounding the relationship between maternal toxicity and developmental outcome. Expert judgment and a weight of evidence approach, using all available studies, shall be used to determine the degree of influence to be attributed to maternal toxicity when interpreting the criteria for classification for developmental effects. The adverse effects in the embryo/fetus shall be first considered, and then maternal toxicity, along with any other factors which are likely to have influenced these effects, as weight of evidence, to help reach a conclusion about classification.

A.7.2.4.2 Based on pragmatic observation, it is believed that maternal toxicity may, depending on severity, influence development via non-specific secondary mechanisms, producing effects such as depressed fetal weight, retarded ossification, and possibly resorptions and certain malformations in some strains of certain species. However, the limited numbers of studies which have investigated the relationship between developmental effects and general maternal toxicity have failed to demonstrate a consistent, reproducible relationship across species. Developmental effects which occur even in the presence of maternal toxicity are considered to be evidence of developmental toxicity, unless it can be unequivocally demonstrated on a case by case basis that the developmental effects are secondary to maternal toxicity. Moreover, classification shall be considered where there is a significant toxic effect in the offspring, *e.g.,* irreversible effects such as structural malformations, embryo/fetal lethality, or significant post-natal functional deficiencies.

A.7.2.4.3 Classification shall not automatically be discounted for chemicals that produce developmental toxicity only in association with maternal toxicity, even if a specific maternally-mediated mechanism has been demonstrated. In such a case, classification in Category 2 may be considered more appropriate than Category 1. However, when a chemical is so toxic that maternal death or severe inanition results, or the dams (mothers) are prostrate and incapable of nursing the pups, it is reasonable to assume that developmental toxicity is produced solely as a secondary consequence of maternal toxicity and discount the developmental effects. Classification is not necessarily the outcome in the case of minor developmental changes, *e.g.,* a small reduction in fetal/pup body weight or retardation of ossification when seen in association with maternal toxicity.

A.7.2.4.4 Some of the endpoints used to assess maternal toxicity are provided below. Data on these endpoints, if available, shall be evaluated in light of their statistical or biological significance and dose-response relationship.

(a) *Maternal mortality:* An increased incidence of mortality among the treated dams over the controls shall be considered evidence of maternal toxicity if the increase occurs in a dose-related manner and can be attributed to the systemic toxicity of the test material. Maternal mortality greater than 10% is considered excessive and the data for that dose level shall not normally be considered to need further evaluation.

(b) *Mating index* (Number of animals with seminal plugs or sperm/Number of mated × 100)

(c) *Fertility index* (Number of animals with implants/Number of matings × 100)

(d) *Gestation length* (If allowed to deliver)

(e) *Body weight and body weight change:* Consideration of the maternal body weight change and/or adjusted (corrected) maternal body weight shall be included in the evaluation of maternal toxicity whenever

such data are available. The calculation of an adjusted (corrected) mean maternal body weight change, which is the difference between the initial and terminal body weight minus the gravid uterine weight (or alternatively, the sum of the weights of the fetuses), may indicate whether the effect is maternal or intrauterine. In rabbits, the body weight gain may not be useful indicators of maternal toxicity because of normal fluctuations in body weight during pregnancy.

(f) *Food and water consumption* (if relevant): The observation of a significant decrease in the average food or water consumption in treated dams (mothers) compared to the control group may be useful in evaluating maternal toxicity, particularly when the test material is administered in the diet or drinking water. Changes in food or water consumption must be evaluated in conjunction with maternal body weights when determining if the effects noted are reflective of maternal toxicity or more simply, unpalatability of the test material in feed or water.

(g) *Clinical evaluations* (including clinical signs, markers, and hematology and clinical chemistry studies): The observation of increased incidence of significant clinical signs of toxicity in treated dams (mothers) relative to the control group is useful in evaluating maternal toxicity. If this is to be used as the basis for the assessment of maternal toxicity, the types, incidence, degree and duration of clinical signs shall be reported in the study. Clinical signs of maternal intoxication include, but are not limited to: coma, prostration, hyperactivity, loss of righting reflex, ataxia, or labored breathing.

(h) *Post-mortem data:* Increased incidence and/or severity of post-mortem findings may be indicative of maternal toxicity. This can include gross or microscopic pathological findings or organ weight data, including absolute organ weight, organ-to-body weight ratio, or organ-to-brain weight ratio. When supported by findings of adverse histopathological effects in the affected organ(s), the observation of a significant change in the average weight of suspected target organ(s) of treated dams (mothers), compared to those in the control group, may be considered evidence of maternal toxicity.

A.7.2.5 Animal and Experimental Data

A.7.2.5.1 A number of scientifically validated test methods are available, including methods for developmental toxicity testing (*e.g.,* OECD Test Guideline 414, ICH Guideline S5A, 1993), methods for peri- and post-natal toxicity testing (*e.g.,* ICH S5B, 1995), and methods for one or two-generation toxicity testing (*e.g.,* OECD Test Guidelines 415, 416)

A.7.2.5.2 Results obtained from screening tests (*e.g.,* OECD Guidelines 421—Reproduction/Developmental Toxicity Screening Test, and 422—Combined Repeated Dose Toxicity Study with Reproduction/Development Toxicity Screening Test) can also be used to justify classification, although the quality of this evidence is less reliable than that obtained through full studies.

A.7.2.5.3 Adverse effects or changes, seen in short- or long-term repeated dose toxicity studies, which are judged likely to impair reproductive function and which occur in the absence of significant generalized toxicity, may be used as a basis for classification, *e.g.,* histopathological changes in the gonads.

A.7.2.5.4 Evidence from *in vitro* assays, or non-mammalian tests, and from analogous substances using structure-activity relationship (SAR), can contribute to the procedure for classification. In all cases of this nature, expert judgment must be used to assess the adequacy of the data. Inadequate data should not be used as a primary support for classification.

A.7.2.5.5 It is preferable that animal studies are conducted using appropriate routes of administration which relate to the potential route of human exposure. However, in practice, reproductive toxicity studies are commonly conducted using the oral route, and such studies will normally be suitable for evaluating the hazardous properties of the substance with respect to reproductive toxicity. However, if it can be conclusively demonstrated that the clearly identified mechanism or mode of action has no relevance for humans or when the toxicokinetic differences are so marked that it is certain that the hazardous property will not be expressed in humans then a substance which produces an adverse effect on reproduction in experimental animals should not be classified.

A.7.2.5.6 Studies involving routes of administration such as intravenous or intraperitoneal injection, which may result in exposure of the reproductive organs to unrealistically high levels of the test substance, or elicit local damage to the reproductive organs, *e.g.,* by irritation, must be interpreted with extreme caution and on their own are not normally the basis for classification.

A.7.2.5.7 There is general agreement about the concept of a limit dose, above which the production of an adverse effect may be considered to be outside the criteria which lead to classification. Some test guidelines specify a limit dose, other test guidelines qualify the limit dose with a statement that higher doses may be necessary if anticipated human exposure is sufficiently high that an adequate margin of exposure would not be achieved. Also, due to species differences in toxicokinetics, establishing a specific limit dose may not be adequate for situations where humans are more sensitive than the animal model.

A.7.2.5.8 In principle, adverse effects on reproduction seen only at very high dose levels in animal studies (for example doses that induce prostration, severe inappetence, excessive mortality) do not normally lead to classification, unless other information is available, for example, toxicokinetics information indicating that humans may be more susceptible than animals, to suggest that classification is appropriate.

A.7.2.5.9 However, specification of the actual ''limit dose'' will depend upon the test method that has been employed to provide the test results.

A.7.3 Classification Criteria for Mixtures [25]

A.7.3.1 Classification of Mixtures When Data Are Available for All Ingredients or Only for Some Ingredients of the Mixture

A.7.3.1.1 The mixture shall be classified as a reproductive toxicant when at least one ingredient has been classified as a Category 1 or Category 2 reproductive toxicant and is present at or above the appropriate cut-off value/concentration limit specified in Table A.7.1 for Category 1 and 2, respectively.

A.7.3.1.2 The mixture shall be classified for effects on or via lactation when at least one ingredient has been classified for effects on or via lactation and is present at or above the appropriate cut-off value/concentration limit specified in Table A.7.1 for the additional category for effects on or via lactation.

[25] It should be noted that the classification criteria for the GHS usually include a tiered scheme in which test data available on the complete mixture are considered as the first tier in the evaluation, followed by the applicable bridging principles, and lastly, cut-off values/concentration or additivity. However, this approach is not used for Reproductive Toxicity. These criteria for Reproductive Toxicity consider the cut-off levels as the primary tier and allow the classification to be modified only on a case-by-case evaluation based on available test data for the mixture as a whole.

TABLE A.7.1—CUT-OFF VALUES/CONCENTRATION LIMITS OF INGREDIENTS OF A MIXTURE CLASSIFIED AS REPRODUCTIVE TOXICANTS OR FOR EFFECTS ON OR VIA LACTATION THAT TRIGGER CLASSIFICATION OF THE MIXTURE

Ingredients classified as:	Cut-off values/concentration limits triggering classification of a mixture as:		
	Category 1 reproductive toxicant	Category 2 reproductive toxicant	Additional category for effects on or via lactation
Category 1 reproductive toxicant	≥0.1%.		
Category 2 reproductive toxicant		≥0.1%.	
Additional category for effects on or via lactation		≥0.1%.	

A.7.3.2 Classification of mixtures when data are available for the complete mixture

Available test data for the mixture as a whole may be used for classification on a case-by-case basis. In such cases, the test results for the mixture as a whole must be shown to be conclusive taking into account dose and other factors such as duration, observations and analysis (*e.g.*, statistical analysis, test sensitivity) of reproduction test systems.

A.7.3.3 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

A.7.3.3.1 Where the mixture itself has not been tested to determine its reproductive toxicity, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data shall be used in accordance with the following bridging principles as found in paragraph A.0.5 of this Appendix: Dilution, Batching, and Substantially similar mixtures.

A.8 SPECIFIC TARGET ORGAN TOXICITY SINGLE EXPOSURE

A.8.1 Definitions and General Considerations

A.8.1.1 Specific target organ toxicity—single exposure, (STOT–SE) means specific, non-lethal target organ toxicity arising from a single exposure to a chemical. All significant health effects that can impair function, both reversible and irreversible, immediate and/or delayed and not specifically addressed in A.1 to A.7 and A.10 of this Appendix are included. Specific target organ toxicity following repeated exposure is classified in accordance with SPECIFIC TARGET ORGAN TOXICITY—REPEATED EXPOSURE (A.9 of this Appendix) and is therefore not included here.

A.8.1.2 Classification identifies the chemical as being a specific target organ toxicant and, as such, it presents a potential for adverse health effects in people who are exposed to it.

A.8.1.3 The adverse health effects produced by a single exposure include consistent and identifiable toxic effects in humans; or, in experimental animals, toxicologically significant changes which have affected the function or morphology of a tissue/organ, or have produced serious changes to the biochemistry or hematology of the organism, and these changes are relevant for human health. Human data is the primary source of evidence for this hazard class.

A.8.1.4 Assessment shall take into consideration not only significant changes in a single organ or biological system but also generalized changes of a less severe nature involving several organs.

A.8.1.5 Specific target organ toxicity can occur by any route that is relevant for humans, *i.e.*, principally oral, dermal or inhalation.

A.8.1.6 The classification criteria for specific organ systemic toxicity single exposure are organized as criteria for substances Categories 1 and 2 (see A.8.2.1), criteria for substances Category 3 (see A.8.2.2) and criteria for mixtures (see A.8.3). See also Figure A.8.1.

A.8.2 Classification Criteria for Substances

A.8.2.1 Substances of Category 1 and Category 2

A.8.2.1.1 Substances shall be classified for immediate or delayed effects separately, by the use of expert judgment on the basis of the weight of all evidence available, including the use of recommended guidance values (see A.8.2.1.9). Substances shall then be classified in Category 1 or 2, depending upon the nature and severity of the effect(s) observed, in accordance with Figure A.8.1.

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Figure A.8.1: Hazard categories for specific target organ toxicity following single exposure

CATEGORY 1: **Substances that have produced significant toxicity in humans, or that, on the basis of evidence from studies in experimental animals can be presumed to have the potential to produce significant toxicity in humans following single exposure**

Substances are classified in Category 1 for STOT-SE on the basis of:

(a) reliable and good quality evidence from human cases or epidemiological studies; or

(b) observations from appropriate studies in experimental animals in which significant and/or severe toxic effects of relevance to human health were produced at generally low exposure concentrations. Guidance dose/concentration values are provided below (see A.8.2.1.9) to be used as part of weight-of-evidence evaluation.

CATEGORY 2: **Substances that, on the basis of evidence from studies in experimental animals, can be presumed to have the potential to be harmful to human health following single exposure**

Substances are classified in Category 2 for STOT-SE on the basis of observations from appropriate studies in experimental animals in which significant toxic effects, of relevance to human health, were produced at generally moderate exposure concentrations. Guidance dose/concentration values are provided below (see A.8.2.1.9) in order to help in classification.

In exceptional cases, human evidence can also be used to place a substance in Category 2 (see A.8.2.1.6).

CATEGORY 3: **Transient target organ effects**

There are target organ effects for which a substance does not meet the criteria to be classified in Categories 1 or 2 indicated above. These are effects which adversely alter human function for a short duration after exposure and from which humans may recover in a reasonable period without leaving significant alteration of structure or function. This category only includes narcotic effects and respiratory tract irritation. Substances are classified specifically for these effects as discussed in A.8.2.2.

Note: *The primary target organ organ/system shall be identified where possible, and where this is not possible, the substance shall be identified as a general toxicant. The data shall be evaluated and, where possible, shall not include secondary effects (e.g., a hepatotoxicant can produce secondary effects in the nervous or gastro-intestinal systems).*

A.8.2.1.2 The relevant route(s) of exposure by which the classified substance produces damage shall be identified.

A.8.2.1.3 Classification is determined by expert judgment, on the basis of the weight of all evidence available including the guidance presented below.

A.8.2.1.4 Weight of evidence of all data, including human incidents, epidemiology, and studies conducted in experimental animals is used to substantiate specific target organ toxic effects that merit classification.

A.8.2.1.5 The information required to evaluate specific target organ toxicity comes either from single exposure in humans, *e.g.*, exposure at home, in the workplace or environmentally, or from studies conducted in experimental animals. The standard animal studies in rats or mice that provide this information are acute toxicity studies which can include clinical observations and detailed macroscopic and microscopic examination to enable the toxic effects on target tissues/organs to be identified. Results of acute toxicity studies conducted in other species may also provide relevant information.

A.8.2.1.6 In exceptional cases, based on expert judgment, it may be appropriate to place certain substances with human evidence of target organ toxicity in Category 2: (a) when the weight of human evidence is not sufficiently convincing to warrant Category 1 classification, and/or (b) based on the nature and severity of effects. Dose/concentration levels in humans shall not be considered in the classification and any available evidence from animal studies shall be consistent with the Category 2 classification. In other words, if there are also animal data available on the substance that warrant Category 1 classification, the chemical shall be classified as Category 1.

A.8.2.1.7 Effects considered to support classification for Category 1 and 2

A.8.2.1.7.1 Classification is supported by evidence associating single exposure to the substance with a consistent and identifiable toxic effect.

A.8.2.1.7.2 Evidence from human experience/incidents is usually restricted to reports of adverse health consequences, often with uncertainty about exposure conditions, and may not provide the scientific detail that can be obtained from well-conducted studies in experimental animals.

A.8.2.1.7.3 Evidence from appropriate studies in experimental animals can furnish much more detail, in the form of clinical observations, and macroscopic and microscopic pathological examination and this can often reveal hazards that may not be life-threatening but could indicate functional impairment. Consequently all available evidence, and evidence relevance to human health, must be taken into consideration in the classification process. Relevant toxic effects in humans and/or animals include, but are not limited to:

(a) Morbidity resulting from single exposure;

(b) Significant functional changes, more than transient in nature, in the respiratory system, central or peripheral nervous systems, other organs or other organ systems, including signs of central nervous system depression and effects on special senses (*e.g.*, sight, hearing and sense of smell);

(c) Any consistent and significant adverse change in clinical biochemistry, hematology, or urinalysis parameters;

(d) Significant organ damage that may be noted at necropsy and/or subsequently seen or confirmed at microscopic examination;

(e) Multi-focal or diffuse necrosis, fibrosis or granuloma formation in vital organs with regenerative capacity;

(f) Morphological changes that are potentially reversible but provide clear evidence of marked organ dysfunction; and,

(g) Evidence of appreciable cell death (including cell degeneration and reduced cell number) in vital organs incapable of regeneration.

A.8.2.1.8 Effects considered not to support classification for Category 1 and 2

Effects may be seen in humans and/or animals that do not justify classification. Such effects include, but are not limited to:

(a) Clinical observations or small changes in bodyweight gain, food consumption or water intake that may have some toxicological importance but that do not, by themselves, indicate ''significant'' toxicity;

(b) Small changes in clinical biochemistry, hematology or urinalysis parameters and/or transient effects, when such changes or effects are of doubtful or of minimal toxicological importance;

(c) Changes in organ weights with no evidence of organ dysfunction;

(d) Adaptive responses that are not considered toxicologically relevant; and,

(e) Substance-induced species-specific mechanisms of toxicity, *i.e.,* demonstrated with reasonable certainty to be not relevant for human health, shall not justify classification.

A.8.2.1.9 Guidance values to assist with classification based on the results obtained from studies conducted in experimental animals for Category 1 and 2

A.8.2.1.9.1 In order to help reach a decision about whether a substance shall be classified or not, and to what degree it shall be classified (Category 1 vs. Category 2), dose/concentration ''guidance values'' are provided for consideration of the dose/concentration which has been shown to produce significant health effects. The principal argument for proposing such guidance values is that all chemicals are potentially toxic and there has to be a reasonable dose/concentration above which a degree of toxic effect is acknowledged.

A.8.2.1.9.2 Thus, in animal studies, when significant toxic effects are observed that indicate classification, consideration of the dose/concentration at which these effects were seen, in relation to the suggested guidance values, provides useful information to help assess the need to classify (since the toxic effects are a consequence of the hazardous property(ies) and also the dose/concentration).

A.8.2.1.9.3 The guidance value (C) ranges for single-dose exposure which has produced a significant non-lethal toxic effect are those applicable to acute toxicity testing, as indicated in Table A.8.1.

Table A.8.1: Guidance value ranges for single-dose exposures

		Guidance value ranges for:		
Route of exposure	**Units**	**Category 1**	**Category 2**	**Category 3**
Oral (rat)	mg/kg body weight	$C \leq 300$	$2000 \geq C > 300$	Guidance values do not apply
Dermal (rat or rabbit)	mg/kg body weight	$C \leq 1000$	$2000 \geq C > 1000$	
Inhalation (rat) gas	ppmV/4h	$C \leq 2500$	$20{,}000 \geq C > 2500$	
Inhalation (rat) vapor	mg/l/4h	$C \leq 10$	$20 \geq C > 10$	
Inhalation (rat) dust/mist/fume	mg/l/4h	$C \leq 1.0$	$5.0 \geq C > 1.0$	

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A.8.2.1.9.4 The guidance values and ranges mentioned in Table A.8.1 are intended only for guidance purposes, *i.e.,* to be used as part of the weight of evidence approach, and to assist with decisions about classification. They are not intended as strict demarcation values. Guidance values are not provided for Category 3 since this classification is primarily based on human data; animal data may be included in the weight of evidence evaluation.

A.8.2.1.9.5 Thus, it is feasible that a specific profile of toxicity occurs at a dose/concentration below the guidance value, *e.g.,* < 2000 mg/kg body weight by the oral route, however the nature of the effect may result in the decision not to classify. Conversely, a specific profile of toxicity may be seen in animal studies occurring at above a guidance value, *e.g.,* ≥ 2000 mg/kg body weight by the oral route, and in addition there is supplementary information from other sources, *e.g.,* other single dose studies, or human case experience, which supports a conclusion that, in view of the weight of evidence, classification is the prudent action to take.

A.8.2.1.10 Other Considerations

A.8.2.1.10.1 When a substance is characterized only by use of animal data (typical of new substances, but also true for many existing substances), the classification process includes reference to dose/concentration guidance values as one of the elements that contribute to the weight of evidence approach.

A.8.2.1.10.2 When well-substantiated human data are available showing a specific target organ toxic effect that can be reliably attributed to single exposure to a substance, the substance shall be classified. Positive human data, regardless of probable dose, predominates over animal data. Thus, if a substance is unclassified because specific target organ toxicity observed was considered not relevant or significant to humans, if subsequent human incident data become available showing a specific target organ toxic effect, the substance shall be classified.

A.8.2.1.10.3 A substance that has not been tested for specific target organ toxicity shall, where appropriate, be classified on the basis of data from a validated structure activity relationship and expert judgment-based extrapolation from a structural analogue that has previously been classified together with substantial support from consideration of other important factors such as formation of common significant metabolites.

A.8.2.2 Substances of Category 3

A.8.2.2.1 Criteria for Respiratory Tract Irritation

The criteria for classifying substances as Category 3 for respiratory tract irritation are:

(a) Respiratory irritant effects (characterized by localized redness, edema, pruritis and/or pain) that impair function with symptoms such as cough, pain, choking, and breathing difficulties are included. It is recognized that this evaluation is based primarily on human data;

(b) Subjective human observations supported by objective measurements of clear respiratory tract irritation (RTI) (*e.g.,* electrophysiological responses, biomarkers of inflammation in nasal or bronchoalveolar lavage fluids);

(c) The symptoms observed in humans shall also be typical of those that would be produced in the exposed population rather than being an isolated idiosyncratic reaction or response triggered only in individuals with hypersensitive airways. Ambiguous reports simply of ''irritation'' should be excluded as this term is commonly used to describe a wide range of sensations including those such as smell, unpleasant taste, a tickling sensation, and dryness, which are outside the scope of classification for respiratory track irritation;

(d) There are currently no validated animal tests that deal specifically with RTI; however, useful information may be obtained from the single and repeated inhalation toxicity tests. For example, animal studies may provide useful information in terms of clinical signs of toxicity (dyspnoea, rhinitis etc) and histopathology (*e.g.,* hyperemia, edema, minimal inflammation, thickened mucous layer) which are reversible and may be reflective of the characteristic clinical symptoms described above. Such animal studies can be used as part of weight of evidence evaluation; and,

(e) This special classification will occur only when more severe organ effects including the respiratory system are not observed as those effects would require a higher classification.

A.8.2.2.2 Criteria for narcotic effects

The criteria for classifying substances in Category 3 for narcotic effects are:

(a) Central nervous system depression including narcotic effects in humans such as drowsiness, narcosis, reduced alertness, loss of reflexes, lack of coordination, and vertigo are included. These effects can also be manifested as severe headache or nausea, and can lead to reduced judgment, dizziness, irritability, fatigue, impaired memory function, deficits in perception and coordination, reaction time, or sleepiness; and,

(b) Narcotic effects observed in animal studies may include lethargy, lack of coordination righting reflex, narcosis, and ataxia. If these effects are not transient in nature, then they shall be considered for classification as Category 1 or 2.

A.8.3 Classification Criteria for Mixtures

A.8.3.1 Mixtures are classified using the same criteria as for substances, or alternatively as described below. As with substances, mixtures may be classified for specific target organ toxicity following single exposure, repeated exposure, or both.

A.8.3.2 Classification of Mixtures When Data Are Available for the Complete Mixture

When reliable and good quality evidence from human experience or appropriate studies in experimental animals, as described in the criteria for substances, is available for the mixture, then the mixture shall be classified by weight of evidence evaluation of this data. Care shall be exercised in evaluating data on mixtures, that the dose, duration, observation or analysis, do not render the results inconclusive.

A.8.3.3 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

A.8.3.3.1 Where the mixture itself has not been tested to determine its specific target organ toxicity, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data shall be used in accordance with the following bridging principles as found in paragraph A.0.5 of this Appendix: Dilution, Batching, Concentration of mixtures, Interpolation within one toxicity category, Substantially similar mixtures, or Aerosols.

A.8.3.4 Classification of Mixtures When Data Are Available for All Ingredients or Only for Some Ingredients of the Mixture

A.8.3.4.1 Where there is no reliable evidence or test data for the specific mixture itself, and the bridging principles cannot be used to enable classification, then classification of the mixture is based on the classification of the ingredient substances. In this case, the mixture shall be classified as a specific target organ toxicant (specific organ specified), following single exposure, repeated exposure, or both when at least one ingredient has been classified as a Category 1 or Category 2 specific target organ toxicant and is present at or above the appropriate cut-off value/concentration limit specified in Table A.8.2 for Categories 1 and 2, respectively, in accordance with the principles of A.0.2.1 in this Appendix.

TABLE A.8.2—CUT-OFF VALUES/CONCENTRATION LIMITS OF INGREDIENTS OF A MIXTURE CLASSIFIED AS A SPECIFIC TARGET ORGAN TOXICANT THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE AS CATEGORY 1 OR 2

Ingredient classified as:	Cut-off values/concentration limits triggering classification of a mixture as:	
	Category 1	Category 2
Category 1 Target organ toxicant	≥ 1.0%.	
Category 2 Target organ toxicant	.....	≥ 1.0%

A.8.3.4.2 These cut-off values and consequent classifications shall be applied equally and appropriately to both single- and repeated-dose target organ toxicants.

A.8.3.4.3 Mixtures shall be classified for either or both single and repeated dose toxicity independently.

A.8.3.4.4 Care shall be exercised when toxicants affecting more than one organ system are combined that the potentiation or synergistic interactions are considered, because certain substances can cause target organ toxicity at < 1% concentration when other ingredients in the mixture are known to potentiate its toxic effect. See A.0.2.1.

A.8.3.4.5 Care shall be exercised when extrapolating the toxicity of a mixture that contains Category 3 ingredient(s). A cut-off value/concentration limit of 20%, considered as an additive of all Category 3 ingredients for each hazard endpoint, is appropriate; however, this cut-off value/concentration limit may be higher or lower depending on the Category 3 ingredient(s) involved and the fact that some effects such as respiratory tract irritation may not occur below a certain concentration while other effects such as narcotic effects may occur below this 20% value. Expert judgment shall be exercised. Respiratory tract irritation and narcotic effects are to be evaluated separately in accordance with the criteria given in A.8.2.2. When conducting classifications for these hazards, the contribution of each ingredient should be considered additive, unless there is evidence that the effects are not additive.

A.9 SPECIFIC TARGET ORGAN TOXICITY REPEATED OR PROLONGED EXPOSURE

A.9.1 Definitions and General Considerations

A.9.1.1 Specific target organ toxicity—repeated exposure (STOT-RE) means specific target organ toxicity arising from repeated exposure to a substance or mixture. All significant health effects that can impair function, both reversible and irreversible, immediate and/or delayed and not specifically addressed in A.1 to A.7 and A.10 of this Appendix are included. Specific target organ toxicity following a single-event exposure is classified in accordance with SPECIFIC TARGET ORGAN TOXICITY—SINGLE EXPOSURE (A.8 of this Appendix) and is therefore not included here.

A.9.1.2 Classification identifies the substance or mixture as being a specific target organ toxicant and, as such, it may present a potential for adverse health effects in people who are exposed to it.

A.9.1.3 These adverse health effects produced by repeated exposure include consistent and identifiable toxic effects in humans, or, in experimental animals, toxicologically significant changes which have affected the function or morphology of a tissue/organ, or have produced serious changes to the biochemistry or hematology of the organism and these changes are relevant for human health. Human data will be the primary source of evidence for this hazard class.

A.9.1.4 Assessment shall take into consideration not only significant changes in a single organ or biological system but also generalized changes of a less severe nature involving several organs.

A.9.1.5 Specific target organ toxicity can occur by any route that is relevant for humans, *i.e.,* principally oral, dermal or inhalation.

A.9.2 Classification Criteria for Substances

A.9.2.1 Substances shall be classified as STOT—RE by expert judgment on the basis of the weight of all evidence available,

including the use of recommended guidance values which take into account the duration of exposure and the dose/concentration which produced the effect(s), (see A.9.2.9). Substances shall be placed in one of two categories, depending upon the nature and severity of the effect(s) observed, in accordance with Figure A.9.1.

Figure A.9.1: Hazard categories for specific target organ toxicity following repeated exposure

CATEGORY 1: Substances that have produced significant toxicity in humans, or that, on the basis of evidence from studies in experimental animals can be presumed to have the potential to produce significant toxicity in humans following repeated or prolonged exposure

Substances are classified in Category 1 for specific target organ toxicity (repeated exposure) on the basis of:

(a) reliable and good quality evidence from human cases or epidemiological studies; or,

(b) observations from appropriate studies in experimental animals in which significant and/or severe toxic effects, of relevance to human health, were produced at generally low exposure concentrations. Guidance dose/concentration values are provided below (see A.9.2.9) to be used as part of weight-of- evidence evaluation.

CATEGORY 2: Substances that, on the basis of evidence from studies in experimental animals can be presumed to have the potential to be harmful to human health following repeated or prolonged exposure

Substances are classified in Category 2 for specific target organ toxicity (repeated exposure) on the basis of observations from appropriate studies in experimental animals in which significant toxic effects, of relevance to human health, were produced at generally moderate exposure concentrations. Guidance dose/concentration values are provided below (see A.9.2.9) in order to help in classification.

In exceptional cases human evidence can also be used to place a substance in Category 2 (see A.9.2.6).

Note: The primary target organ/system shall be identified where possible, or the substance shall be identified as a general toxicant. The data shall be carefully evaluated and, where possible, shall not include secondary effects (e.g., a hepatotoxicant can produce secondary effects in the nervous or gastro-intestinal systems).

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A.9.2.2 The relevant route of exposure by which the classified substance produces damage shall be identified.

A.9.2.3 Classification is determined by expert judgment, on the basis of the weight of all evidence available including the guidance presented below.

A.9.2.4 Weight of evidence of all data, including human incidence, epidemiology, and studies conducted in experimental animals, is used to substantiate specific target organ toxic effects that merit classification.

A.9.2.5 The information required to evaluate specific target organ toxicity comes either from repeated exposure in humans, *e.g.,* exposure at home, in the workplace or environmentally, or from studies conducted in experimental animals. The standard animal studies in rats or mice that provide this information are 28 day, 90 day or lifetime studies (up to 2 years) that include hematological, clinico-chemical and detailed macroscopic and microscopic examination to enable the toxic effects on target tissues/organs to be identified. Data from repeat dose studies performed in other species may also be used. Other long-term exposure studies, *e.g.,* for carcinogenicity, neurotoxicity or reproductive toxicity, may also provide evidence of specific target organ toxicity that could be used in the assessment of classification.

A.9.2.6 In exceptional cases, based on expert judgment, it may be appropriate to place certain substances with human evidence of specific target organ toxicity in Category 2: (a) when the weight of human evidence is not sufficiently convincing to warrant Category 1 classification, and/or (b) based on the nature and severity of effects. Dose/concentration levels in humans shall not be considered in the classification and any available evidence from animal studies shall be consistent with the Category 2 classification. In other words, if there are also animal data available on the substance that warrant Category 1 classification, the substance shall be classified as Category 1.

A.9.2.7 Effects considered to support classification

A.9.2.7.1 Classification is supported by reliable evidence associating repeated exposure to the substance with a consistent and identifiable toxic effect.

A.9.2.7.2 Evidence from human experience/incidence is usually restricted to reports of adverse health consequences, often with uncertainty about exposure conditions, and may not provide the scientific detail that can be obtained from well-conducted studies in experimental animals.

A.9.2.7.3 Evidence from appropriate studies in experimental animals can furnish much more detail, in the form of clinical observations, hematology, clinical chemistry, macroscopic and microscopic pathological examination and this can often reveal hazards that may not be life-threatening but could indicate functional impairment. Consequently all available evidence, and relevance to human health, must be taken into consideration in the classification process. Relevant toxic effects in humans and/or animals include, but are not limited to:

(a) Morbidity or death resulting from repeated or long-term exposure. Morbidity or death may result from repeated exposure, even to relatively low doses/concentrations, due to bioaccumulation of the substance or its metabolites, or due to the overwhelming of the de-toxification process by repeated exposure;

(b) Significant functional changes in the central or peripheral nervous systems or other organ systems, including signs of central nervous system depression and

effects on special senses (*e.g.,* sight, hearing and sense of smell);

(c) Any consistent and significant adverse change in clinical biochemistry, hematology, or urinalysis parameters;

(d) Significant organ damage that may be noted at necropsy and/or subsequently seen or confirmed at microscopic examination;

(e) Multi-focal or diffuse necrosis, fibrosis or granuloma formation in vital organs with regenerative capacity;

(f) Morphological changes that are potentially reversible but provide clear evidence of marked organ dysfunction (*e.g.,* severe fatty change in the liver); and,

(g) Evidence of appreciable cell death (including cell degeneration and reduced cell number) in vital organs incapable of regeneration.

A.9.2.8 Effects Considered Not to Support Classification

Effects may be seen in humans and/or animals that do not justify classification. Such effects include, but are not limited to:

(a) Clinical observations or small changes in bodyweight gain, food consumption or water intake that may have some toxicological importance but that do not, by themselves, indicate ''significant'' toxicity;

(b) Small changes in clinical biochemistry, hematology or urinalysis parameters and/or transient effects, when such changes or effects are of doubtful or of minimal toxicological importance;

(c) Changes in organ weights with no evidence of organ dysfunction;

(d) Adaptive responses that are not considered toxicologically relevant;

(e) Substance-induced species-specific mechanisms of toxicity, *i.e.,* demonstrated with reasonable certainty to be not relevant for human health, shall not justify classification.

A.9.2.9 Guidance values to assist with classification based on the results obtained from studies conducted in experimental animals

A.9.2.9.1 In studies conducted in experimental animals, reliance on observation of effects alone, without reference to the duration of experimental exposure and dose/concentration, omits a fundamental concept of toxicology, *i.e.,* all substances are potentially toxic, and what determines the toxicity is a function of the dose/concentration and the duration of exposure. In most studies conducted in experimental animals the test guidelines use an upper limit dose value.

A.9.2.9.2 In order to help reach a decision about whether a substance shall be classified or not, and to what degree it shall be classified (Category 1 vs. Category 2), dose/concentration ''guidance values'' are provided in Table A.9.1 for consideration of the dose/concentration which has been shown to produce significant health effects. The principal argument for proposing such guidance values is that all chemicals are potentially toxic and there has to be a reasonable dose/concentration above which a degree of toxic effect is acknowledged. Also, repeated-dose studies conducted in experimental animals are designed to produce toxicity at the highest dose used in order to optimize the test objective and so most studies will reveal some toxic effect at least at this highest dose. What is therefore to be decided is not only what effects have been produced, but also at what dose/concentration they were produced and how relevant that is for humans.

A.9.2.9.3 Thus, in animal studies, when significant toxic effects are observed that indicate classification, consideration of the duration of experimental exposure and the dose/concentration at which these effects were seen, in relation to the suggested guidance values, provides useful information to help assess the need to classify (since the toxic effects are a consequence of the hazardous property(ies) and also the duration of exposure and the dose/concentration).

A.9.2.9.4 The decision to classify at all can be influenced by reference to the dose/concentration guidance values at or below which a significant toxic effect has been observed.

A.9.2.9.5 The guidance values refer to effects seen in a standard 90-day toxicity study conducted in rats. They can be used as a basis to extrapolate equivalent guidance values for toxicity studies of greater or lesser duration, using dose/exposure time extrapolation similar to Haber's rule for inhalation, which states essentially that the effective dose is directly proportional to the exposure concentration and the duration of exposure. The assessment should be done on a case-by-case basis; for example, for a 28-day study the guidance values below would be increased by a factor of three.

A.9.2.9.6 Thus for Category 1 classification, significant toxic effects observed in a 90-day repeated-dose study conducted in experimental animals and seen to occur at or below the (suggested) guidance values (C) as indicated in Table A.9.1 would justify classification:

TABLE A.9.1—GUIDANCE VALUES TO ASSIST IN CATEGORY 1 CLASSIFICATION

[Applicable to a 90-day study]

Route of exposure	Units	Guidance values (dose/ concentration)
Oral (rat)	mg/kg body weight/day	$C \leq 10$.
Dermal (rat or rabbit)	mg/kg body weight/day	$C \leq 20$.
Inhalation (rat) gas	ppmV/6h/day	$C \leq 50$.
Inhalation (rat) vapor	mg/liter/6h/day	$C \leq 0.2$.
Inhalation (rat) dust/mist/fume	mg/liter/6h/day	$C \leq 0.02$.

A.9.2.9.7 For Category 2 classification, significant toxic effects observed in a 90-day repeated-dose study conducted in experimental animals and seen to occur within the (suggested) guidance value ranges as indicated in Table A.9.2 would justify classification:

TABLE A.9.2—GUIDANCE VALUES TO ASSIST IN CATEGORY 2 CLASSIFICATION

[Applicable to a 90-day study]

Route of exposure	Units	Guidance value range (dose/ concentration)
Oral (rat)	mg/kg body weight/day	$10 < C \leq 100$.
Dermal (rat or rabbit)	mg/kg body weight/day	$20 < C \leq 200$.
Inhalation (rat) gas	ppmV/6h/day	$50 < C \leq 250$.
Inhalation (rat) vapor	mg/liter/6h/day	$0.2 < C \leq 1.0$.
Inhalation (rat) dust/mist/fume	mg/liter/6h/day	$0.02 < C \leq 0.2$.

A.9.2.9.8 The guidance values and ranges mentioned in A.2.9.9.6 and A.2.9.9.7 are intended only for guidance purposes, *i.e.,* to be used as part of the weight of evidence approach, and to assist with decisions about classification. They are not intended as strict demarcation values.

A.9.2.9.9 Thus, it is feasible that a specific profile of toxicity occurs in repeat-dose animal studies at a dose/concentration below the guidance value, *e.g.,* < 100 mg/kg body weight/day by the oral route; however the nature of the effect, *e.g.,* nephrotoxicity seen only in male rats of a particular strain known to be susceptible to this effect, may result in the decision not to classify. Conversely, a specific profile of toxicity may be seen in animal studies occurring at or above a guidance value, *e.g.,* ≥ 100 mg/kg body weight/day by the oral route, and in addition there is supplementary information from other sources, *e.g.,* other long-term administration studies, or human case experience, which supports a conclusion that, in view of the weight of evidence, classification is prudent.

A.9.2.10 Other Considerations

A.9.2.10.1 When a substance is characterized only by use of animal data (typical of new substances, but also true for many existing substances), the classification process includes reference to dose/concentration guidance values as one of the elements that contribute to the weight of evidence approach.

A.9.2.10.2 When well-substantiated human data are available showing a specific target organ toxic effect that can be reliably attributed to repeated or prolonged exposure to a substance, the substance shall be classified. Positive human data, regardless of probable dose, predominates over animal data. Thus, if a substance is unclassified because no specific target organ toxicity was seen at or below the dose/concentration guidance value for animal testing, if subsequent human incidence data become available showing a specific target organ toxic effect, the substance shall be classified.

A.9.2.10.3 A substance that has not been tested for specific target organ toxicity may in certain instances, where appropriate, be classified on the basis of data from a validated structure activity relationship and expert judgment-based extrapolation from a structural analogue that has previously been classified together with substantial support from consideration of other important factors such as formation of common significant metabolites.

A.9.3 Classification Criteria for Mixtures

A.9.3.1 Mixtures are classified using the same criteria as for substances, or alternatively as described below. As with substances, mixtures may be classified for specific target organ toxicity following single exposure, repeated exposure, or both.

A.9.3.2 Classification of Mixtures When Data Are Available for the Complete Mixture

When reliable and good quality evidence from human experience or appropriate studies in experimental animals, as described in the criteria for substances, is available for the mixture, then the mixture shall be classified by weight of evidence evaluation of this data. Care shall be exercised in evaluating data on mixtures, that the dose, duration, observation or analysis, do not render the results inconclusive.

A.9.3.3 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

A.9.3.3.1 Where the mixture itself has not been tested to determine its specific target organ toxicity, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazards of the mixture, these data shall be used in accordance with the following bridging principles as found in paragraph A.0.5 of this Appendix: Dilution; Batching; Concentration of mixtures; Interpolation within one toxicity category; Substantially similar mixtures; and Aerosols.

A.9.3.4 Classification of Mixtures When Data Are Available for All Ingredients or Only for Some Ingredients of the Mixture

A.9.3.4.1 Where there is no reliable evidence or test data for the specific mixture itself, and the bridging principles cannot be used to enable classification, then classification of the mixture is based on the classification of the ingredient substances. In this case, the mixture shall be classified as a specific target organ toxicant (specific organ specified), following single exposure, repeated exposure, or both when at least one ingredient has been classified as a Category 1 or Category 2 specific target organ toxicant and is present at or above the appropriate cut-off value/concentration limit specified in Table A.9.3 for Category 1 and 2 respectively in accordance with A.0.2.1.

TABLE A.9.3—CUTOFF VALUE/CONCENTRATION LIMITS OF INGREDIENTS OF A MIXTURE CLASSIFIED AS A SPECIFIC TARGET ORGAN TOXICANT THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE AS CATEGORY 1 OR 2

Ingredient classified as:	Cut-off values/concentration limits triggering classification of a mixture as:	
	Category 1	Category 2
Category 1: Target organ toxicant	≥ 1.0%.	
Category 2: Target organ toxicant		≥ 1.0%.

A.9.3.4.2 These cut-off values and consequent classifications shall be applied equally and appropriately to both single- and repeated-dose target organ toxicants.

A.9.3.4.3 Mixtures shall be classified for either or both single- and repeated-dose toxicity independently.

A.9.3.4.4 Care shall be exercised when toxicants affecting more than one organ system are combined that the potentiation or synergistic interactions are considered, because certain substances can cause specific target organ toxicity at < 1% concentration when other ingredients in the mixture are known to potentiate its toxic effect. See A.0.2.1.

A.10 ASPIRATION HAZARD

A.10.1 Definitions and General and Specific Considerations

A.10.1.1 *Aspiration* means the entry of a liquid or solid chemical directly through the oral or nasal cavity, or indirectly from vomiting, into the trachea and lower respiratory system.

A.10.1.2 Aspiration toxicity includes severe acute effects such as chemical pneumonia, varying degrees of pulmonary injury or death following aspiration.

A.10.1.3 Aspiration is initiated at the moment of inspiration, in the time required to take one breath, as the causative material lodges at the crossroad of the upper respiratory and digestive tracts in the laryngopharyngeal region.

A.10.1.4 Aspiration of a substance or mixture can occur as it is vomited following ingestion. This may have consequences for labeling, particularly where, due to acute toxicity, a recommendation may be considered to induce vomiting after ingestion. However, if the substance/mixture also presents an aspiration toxicity hazard, the recommendation to induce vomiting may need to be modified.

A.10.1.5 Specific Considerations

A.10.1.5.1 The classification criteria refer to kinematic viscosity. The following provides the conversion between dynamic and kinematic viscosity:

$$\frac{\text{Dynamic viscosity (mPa}\cdot\text{s)}}{\text{Density}\left(\text{g/cm}^3\right)} = \text{Kinematic viscosity } \left(\text{mm}^2/\text{s}\right)$$

A.10.1.5.2 Although the definition of aspiration in A.10.1.1 includes the entry of solids into the respiratory system, classification according to (b) in table A.10.1 for Category 1 is intended to apply to liquid substances and mixtures only.

A.10.1.5.3 Classification of Aerosol/Mist Products

Aerosol and mist products are usually dispensed in containers such as self-pressurized containers, trigger and pump sprayers. Classification for these products shall be considered if their use may form a pool of product in the mouth, which then may be aspirated. If the mist or aerosol from a pressurized container is fine, a pool may not be formed. On the other hand, if a pressurized container dispenses product in a stream, a pool may be formed that may then be aspirated. Usually, the mist produced by trigger and pump sprayers is coarse and therefore, a pool may be formed that then may be aspirated. When the pump mechanism may be removed and contents are available to be swallowed then the classification of the products should be considered.

A.10.2 Classification Criteria for Substances

TABLE A.10.1—CRITERIA FOR ASPIRATION TOXICITY

Category	Criteria
Category 1: Chemicals known to cause human aspiration toxicity hazards or to be regarded as if they cause human aspiration toxicity hazard.	A substance shall be classified in Category 1: (a) If reliable and good quality human evidence indicates that it causes aspiration toxicity (See note 1); or (b) If it is a hydrocarbon and has a kinematic viscosity ≤ 20.5 mm^2/s, measured at 40 °C.

Note 1: Examples of substances included in Category 1 are certain hydrocarbons, turpentine and pine oil.

A.10.3 Classification Criteria for Mixtures

A.10.3.1 Classification When Data Are Available for the Complete Mixture

A mixture shall be classified in Category 1 based on reliable and good quality human evidence.

A.10.3.2 Classification of Mixtures When Data Are Not Available for the Complete Mixture: Bridging Principles

A.10.3.2.1 Where the mixture itself has not been tested to determine its aspiration toxicity, but there are sufficient data on both the individual ingredients and similar tested mixtures to adequately characterize the hazard of the mixture, these data shall be used in accordance with the following bridging principles as found in paragraph A.0.5 of this Appendix: Dilution; Batching; Concentration of mixtures; Interpolation within one toxicity category; and Substantially similar mixtures. For application of the dilution bridging principle, the concentration of aspiration toxicants shall not be less than 10%.

A.10.3.3 Classification of Mixtures When Data Are Available for All Ingredients or Only for Some Ingredients of the Mixture

A.10.3.3.1 A mixture which contains ≥ 10% of an ingredient or ingredients classified in Category 1, and has a kinematic viscosity ≤ 20.5 mm^2/s, measured at 40 °C, shall be classified in Category 1.

A.10.3.3.2 In the case of a mixture which separates into two or more distinct layers, one of which contains ≥ 10% of an ingredient or ingredients classified in Category 1 and has a kinematic viscosity ≤ 20.5 mm^2/s, measured at 40 °C, then the entire mixture shall be classified in Category 1.

Appendix B to § 1910.1200—Physical Hazard Criteria (Mandatory)

B.1 EXPLOSIVES

B.1.1 Definitions and General Considerations

B.1.1.1 An explosive chemical is a solid or liquid chemical which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings. Pyrotechnic chemicals are included even when they do not evolve gases.

A *pyrotechnic chemical* is a chemical designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as the result of non-detonative self-sustaining exothermic chemical reactions.

An *explosive item* is an item containing one or more explosive chemicals.

A *pyrotechnic item* is an item containing one or more pyrotechnic chemicals.

An *unstable explosive* is an explosive which is thermally unstable and/or too sensitive for normal handling, transport, or use.

An *intentional explosive* is a chemical or item which is manufactured with a view to produce a practical explosive or pyrotechnic effect.

B.1.1.2 The class of explosives comprises:

(a) Explosive chemicals;

(b) Explosive items, except devices containing explosive chemicals in such quantity or of such a character that their inadvertent or accidental ignition or initiation shall not cause any effect external to the device either by projection, fire, smoke, heat or loud noise; and

(c) Chemicals and items not included under (a) and (b) above which are manufactured with the view to producing a practical explosive or pyrotechnic effect.

B.1.2 Classification Criteria

Chemicals and items of this class shall be classified as unstable explosives or shall be assigned to one of the following six divisions depending on the type of hazard they present:

(a) Division 1.1 Chemicals and items which have a mass explosion hazard (a mass explosion is one which affects almost the entire quantity present virtually instantaneously);

(b) Division 1.2 Chemicals and items which have a projection hazard but not a mass explosion hazard;

(c) Division 1.3 Chemicals and items which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard:

(i) combustion of which gives rise to considerable radiant heat; or

(ii) which burn one after another, producing minor blast or projection effects or both;

(d) Division 1.4 Chemicals and items which present no significant hazard: chemicals and items which present only a small hazard in the event of ignition or initiation. The effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire shall not cause virtually instantaneous explosion of almost the entire contents of the package;

(e) Division 1.5 Very insensitive chemicals which have a mass explosion hazard: chemicals which have a mass explosion hazard but are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions;

(f) Division 1.6 Extremely insensitive items which do not have a mass explosion hazard: items which contain only extremely insensitive detonating chemicals and which demonstrate a negligible probability of accidental initiation or propagation.

B.1.3 Additional Classification Considerations

B.1.3.1 Explosives shall be classified as unstable explosives or shall be assigned to one of the six divisions identified in B.1.2 in accordance with the three step procedure in Part I of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition.* The first step is to ascertain whether the substance or mixture has explosive effects (Test Series 1). The second step is the acceptance procedure (Test Series 2 to 4) and the third step is the assignment to a hazard division (Test Series 5 to 7). The assessment whether a candidate for ''ammonium nitrate emulsion or suspension or gel, intermediate for blasting explosives (ANE)'' is insensitive enough for inclusion as an oxidizing liquid (see B.13) or an oxidizing solid (see B.14) is determined by Test Series 8 tests.

Note: Classification of solid chemicals shall be based on tests performed on the chemical as presented. If, for example, for the purposes of supply or transport, the same chemical is to be presented in a physical form different from that which was tested and which is considered likely to materially alter its performance in a classification test, classification must be based on testing of the chemical in the new form.

B.1.3.2 Explosive properties are associated with the presence of certain chemical groups in a molecule which can react to produce very rapid increases in temperature or pressure. The screening procedure in B.1.3.3 is aimed at identifying the presence of such reactive groups and the potential for rapid energy release. If the screening procedure identifies the chemical as a potential explosive, the acceptance procedure (see section 10.3 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition*) is necessary for classification.

Note: Neither a Series 1 type (a) propagation of detonation test nor a Series 2 type (a) test of sensitivity to detonative shock is necessary if the exothermic decomposition energy of organic materials is less than 800 J/g.

B.1.3.3 If a mixture contains any known explosives, the acceptance procedure is necessary for classification.

B.1.3.4 A chemical is not classified as explosive if:

(a) There are no chemical groups associated with explosive properties present in the molecule. Examples of groups which may indicate explosive properties are given in Table A6.1 in Appendix 6 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition;* or

(b) The substance contains chemical groups associated with explosive properties which include oxygen and the calculated oxygen balance is less than − 200.

The oxygen balance is calculated for the chemical reaction:

$C_xH_yO_z + [x + (y/4) - (z/2)]\ O_2 \rightarrow x.\ CO_2 + (y/2)\ H_2O$

using the formula: oxygen balance = $-1600\ [2x + (y/2) - z]$/molecular weight;

(c) The organic substance or a homogenous mixture of organic substances contains chemical groups associated with explosive properties but the exothermic decomposition energy is less than 500 J/g and the onset of exothermic decomposition is below 500°C. The exothermic decomposition energy may be determined using a suitable calorimetric technique; or

(d) For mixtures of inorganic oxidizing substances with organic material(s), the concentration of the inorganic oxidizing substance is:

less than 15%, by mass, if the oxidizing substance is assigned to Category 1 or 2;

less than 30%, by mass, if the oxidizing substance is assigned to Category 3.

B.2 FLAMMABLE GASES

B.2.1 Definition

Flammable gas means a gas having a flammable range with air at 20°C and a standard pressure of 101.3 kPa (14.7 psi).

B.2.2 Classification Criteria

A flammable gas shall be classified in one of the two categories for this class in accordance with Table B.2.1:

TABLE B.2.1—CRITERIA FOR FLAMMABLE GASES

Category	Criteria
1	Gases, which at 20°C (68°F) and a standard pressure of 101.3 kPa (14.7 psi): (a) are ignitable when in a mixture of 13% or less by volume in air; or (b) have a flammable range with air of at least 12 percentage points regardless of the lower flammable limit.
2	Gases, other than those of Category 1, which, at 20°C (68°F) and a standard pressure of 101.3 kPa (14.7 psi), have a flammable range while mixed in air.

Note: Aerosols should not be classified as flammable gases. See B.3.

B.2.3 Additional Classification Considerations

Flammability shall be determined by tests or by calculation in accordance with methods adopted by ISO (see ISO 10156:1996 ''Gases and gas mixtures—Determination of fire potential and oxidizing ability for the selection of cylinder valve outlets''). Where insufficient data are available to use these methods, equivalent validated methods may be used.

B.3 FLAMMABLE AEROSOLS

B.3.1 Definition

Aerosol means any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, and fitted with a release device allowing the contents to be ejected as particles in suspension in a gas, or as a foam, paste, powder, liquid or gas.

B.3.2 Classification Criteria

B.3.2.1 Aerosols shall be considered for classification as flammable if they contain any component which is classified as flammable in accordance with this Appendix, *i.e.*:

Flammable liquids (see B.6);

Flammable gases (see B.2);

Flammable solids (see B.7).

Note 1: Flammable components do not include pyrophoric, self-heating or water-reactive chemicals.

Note 2: Flammable aerosols do not fall additionally within the scope of flammable gases, flammable liquids, or flammable solids.

B.3.2.2 A flammable aerosol shall be classified in one of the two categories for this class in accordance with Table B.3.1.

TABLE B.3.1—CRITERIA FOR FLAMMABLE AEROSOLS

Category	Criteria
1	Contains ≥ 85% of flammable components and the chemical heat of combustion is ≥ 30 kJ/g; or (a) for spray aerosols, in the ignition distance test, ignition occurs at a distance ≥ 75 cm, or (b) for foam aerosols, in the aerosol foam flammability test. (i) the flame height is ≥ 20 cm and the flame duration ≥ 2 s; or (ii) the flame height is ≥ 4 cm and the flame duration ≥ 7 s.
2	Contains > 1% flammable components, or the heat of combustion is ≥ 20 kJ/g; and

TABLE B.3.1—CRITERIA FOR FLAMMABLE AEROSOLS—Continued

Category	Criteria
	(a) for spray aerosols, in the ignition distance test, ignition occurs at a distance ≥ 15 cm, or in the enclosed space ignition test, the (i) time equivalent is ≤ 300 s/m^3; or (ii) deflagration density is ≤ 300 g/m^3. (b) for foam aerosols, in the aerosol foam flammability test, the flame height is ≥ 4 cm and the flame duration is ≥ 2 s and it does not meet the criteria for Category 1.

Note: Aerosols not submitted to the flammability classification procedures in this Appendix shall be classified as extremely flammable (Category 1).

B.3.3 Additional Classification Considerations

B.3.3.1 To classify a flammable aerosol, data on its flammable components, on its chemical heat of combustion and, if applicable, the results of the aerosol foam flammability test (for foam aerosols) and of the ignition distance test and enclosed space test (for spray aerosols) are necessary.

B.3.3.2 The chemical heat of combustion (ΔHc), in kilojoules per gram (kJ/g), is the product of the theoretical heat of combustion (ΔHcomb), and a combustion efficiency, usually less than 1.0 (a typical combustion efficiency is 0.95 or 95%).

For a composite aerosol formulation, the chemical heat of combustion is the summation of the weighted heats of combustion for the individual components, as follows:

$$\Delta Hc\ (product) = \sum_{i}^{n} [wi\% \times \Delta Hc(i)]$$

Where:

ΔHc = chemical heat of combustion (kJ/g);
wi% = mass fraction of component i in the product;
ΔHc(i) = specific heat of combustion (kJ/g) of component i in the product;

The chemical heats of combustion shall be found in literature, calculated or determined by tests (see ASTM D240–02(2007)—Standard Test Methods for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, ISO/FDIS 13943:1999, 86.1 to 86.3—Fire safety—Vocabulary, and NFPA 30B—Code for the Manufacture and Storage of Aerosol Products, 2007 Edition).

B.3.3.3 The Ignition distance test, Enclosed space ignition test and Aerosol foam flammability test shall be performed in accordance with sub-sections 31.4, 31.5 and 31.6 of the of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition.*

B.4 OXIDIZING GASES

B.4.1 Definition

Oxidizing gas means any gas which may, generally by providing oxygen, cause or contribute to the combustion of other material more than air does.

Note: ''Gases which cause or contribute to the combustion of other material more than air does'' means pure gases or gas mixtures with an oxidizing power greater than 23.5% (as determined, by a method specified in ISO 10156:1996 or 10156–2:2005 or an equivalent testing method.)

B.4.2 Classification Criteria

An oxidizing gas shall be classified in a single category for this class in accordance with Table B.4.1:

TABLE B.4.1—CRITERIA FOR OXIDIZING GASES

Category	Criteria
1	Any gas which may, generally by providing oxygen, cause or contribute to the combustion of other material more than air does.

B.4.3 Additional Classification Considerations

Classification shall be in accordance with tests or calculation methods as described in ISO 10156:1996 ''Gases and gas mixtures—Determination of fire potential and oxidizing ability for the selection of cylinder valve outlet'' and ISO 10156–2:2005 ''Gas cylinders, Gases and gas mixtures. Part 2: Determination of oxidizing ability of toxic and corrosive gases and gas mixtures''.

B.5 GASES UNDER PRESSURE

B.5.1 Definition

Gases under pressure are gases which are contained in a receptacle at a pressure of 200 kPa (29 psi) (gauge) or more, or which are liquefied or liquefied and refrigerated. They comprise compressed gases, liquefied gases, dissolved gases and refrigerated liquefied gases.

B.5.2 Classification Criteria

Gases under pressure shall be classified in one of four groups in accordance with Table B.5.1:

TABLE B.5.1—CRITERIA FOR GASES UNDER PRESSURE

Group	Criteria
Compressed gas	A gas which when under pressure is entirely gaseous at –50 °C (−58 °F); including all gases with a critical temperature[1] ≤ −50 °C (−58 °F).
Liquefied gas	A gas which when under pressure is partially liquid at temperatures above −50 °C (−58 °F). A distinction is made between: (a) High pressure liquefied gas: a gas with a critical temperature[1] between −50 °C (−58 °F) and +65 °C (149 °F); and (b) Low pressure liquefied gas: a gas with a critical temperature[1] above +65 °C (149 °F).
Refrigerated liquefied gas	A gas which is made partially liquid because of its low temperature.
Dissolved gas	A gas which when under pressure is dissolved in a liquid phase solvent.

(1) The critical temperature is the temperature above which a pure gas cannot be liquefied, regardless of the degree of compression.

B.6 FLAMMABLE LIQUIDS

B.6.1 Definition

Flammable liquid means a liquid having a flash point of not more than 93 °C (199.4 °F).

B.6.2 Classification Criteria

A flammable liquid shall be classified in one of four categories in accordance with Table B.6.1:

TABLE B.6.1—CRITERIA FOR FLAMMABLE LIQUIDS

Category	Criteria
1	Flash point <23 °C (73.4 °F) and initial boiling point ≤ 35 °C (95 °F).
2	Flash point <23 °C (73.4 °F) and initial boiling point > 35 °C (95 °F).
3	Flash point ≥ 23 °C (73.4 °F) and ≤ 60 °C (140 °F).
4	Flash point > 60 °C (140 °F) and ≤ 93 °C (199.4 °F).

B.6.3 Additional Classification Considerations

The flash point shall be determined in accordance with Standard Method of Test for Flash Point by Tag Closed Tester (ASTM D 56–93), Standard Methods of Test for Flash Point of Liquids by Setaflash Closed Tester (ASTM D 3278–96), Standard Methods of Test for Flash Point by Small Scale Closed Tester (ASTM D 3828–93), Standard Method of Test for Flash Point by Pensky-Martens Closed Tester (ASTM D 0093–96), or any other method specified in GHS Revision 3, Chapter 2.6.

The initial boiling point shall be determined in accordance with ''Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure (ASTM D86–07a) or Standard Test Method for Distillation Range of Volatile Organic Liquids (ASTM D1078–05).

B.7 FLAMMABLE SOLIDS

B.7.1 Definitions

Flammable solid means a solid which is a readily combustible solid, or which may cause or contribute to fire through friction.

Readily combustible solids are powdered, granular, or pasty chemicals which are dangerous if they can be easily ignited by brief contact with an ignition source, such as a burning match, and if the flame spreads rapidly.

B.7.2 Classification Criteria

B.7.2.1 Powdered, granular or pasty chemicals shall be classified as flammable solids when the time of burning of one or more of the test runs, performed in accordance with the test method described in the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition*, Part III, sub-section 33.2.1, is less than 45 s or the rate of burning is more than 2.2 mm/s.

B.7.2.2 Powders of metals or metal alloys shall be classified as flammable solids when they can be ignited and the reaction spreads over the whole length of the sample in 10 min or less.

B.7.2.3 Solids which may cause fire through friction shall be classified in this class by analogy with existing entries (*e.g.*, matches) until definitive criteria are established.

B.7.2.4 A flammable solid shall be classified in one of the two categories for this class using Method N.1 as described in Part III, sub-section 33.2.1 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition,* in accordance with Table B.7.1:

TABLE B.7.1—CRITERIA FOR FLAMMABLE SOLIDS

Category	Criteria
1	Burning rate test: Chemicals other than metal powders: (a) wetted zone does not stop fire; and (b) burning time < 45 s or burning rate > 2.2 mm/s. Metal powders: burning time ≤ 5 min.
2	Burning rate test: Chemicals other than metal powders: (a) wetted zone stops the fire for at least 4 min; and (b) burning time < 45 s or burning rate > 2.2 mm/s. Metal powders: burning time > 5 min and ≤ 10 min.

Note: Classification of solid chemicals shall be based on tests performed on the chemical as presented. If, for example, for the purposes of supply or transport, the same chemical is to be presented in a physical form different from that which was tested and which is considered likely to materially alter its performance in a classification test, classification must be based on testing of the chemical in the new form.

B.8 SELF-REACTIVE CHEMICALS

B.8.1 Definitions

Self-reactive chemicals are thermally unstable liquid or solid chemicals liable to undergo a strongly exothermic decomposition even without participation of oxygen (air). This definition excludes chemicals classified under this section as explosives, organic peroxides, oxidizing liquids or oxidizing solids.

A self-reactive chemical is regarded as possessing explosive properties when in laboratory testing the formulation is liable to detonate, to deflagrate rapidly or to show a violent effect when heated under confinement.

B.8.2 Classification Criteria

B.8.2.1 A self-reactive chemical shall be considered for classification in this class unless:

(a) It is classified as an explosive according to B.1 of this appendix;

(b) It is classified as an oxidizing liquid or an oxidizing solid according to B.13 or B.14 of this appendix, except that a mixture of oxidizing substances which contains 5% or more of combustible organic substances shall be classified as a self-reactive chemical according to the procedure defined in B.8.2.2;

(c) It is classified as an organic peroxide according to B.15 of this appendix;

(d) Its heat of decomposition is less than 300 J/g; or

(e) Its self-accelerating decomposition temperature (SADT) is greater than 75 °C (167 °F) for a 50 kg package.

B.8.2.2 Mixtures of oxidizing substances, meeting the criteria for classification as oxidizing liquids or oxidizing solids, which contain 5% or more of combustible organic substances and which do not meet the criteria mentioned in B.8.2.1 (a), (c), (d) or (e), shall be subjected to the self-reactive chemicals classification procedure in B.8.2.3. Such a mixture showing the properties of a self-reactive chemical type B to F shall be classified as a self-reactive chemical.

B.8.2.3 Self-reactive chemicals shall be classified in one of the seven categories of ''types A to G'' for this class, according to the following principles:

(a) Any self-reactive chemical which can detonate or deflagrate rapidly, as packaged, will be defined as self-reactive chemical TYPE A;

(b) Any self-reactive chemical possessing explosive properties and which, as packaged, neither detonates nor deflagrates rapidly, but is liable to undergo a thermal explosion in that package will be defined as self-reactive chemical TYPE B;

(c) Any self-reactive chemical possessing explosive properties when the chemical as packaged cannot detonate or deflagrate rapidly or undergo a thermal explosion will be defined as self-reactive chemical TYPE C;

(d) Any self-reactive chemical which in laboratory testing:

(i) Detonates partially, does not deflagrate rapidly and shows no violent effect when heated under confinement; or

(ii) Does not detonate at all, deflagrates slowly and shows no violent effect when heated under confinement; or

(iii) Does not detonate or deflagrate at all and shows a medium effect when heated under confinement;

will be defined as self-reactive chemical TYPE D;

(e) Any self-reactive chemical which, in laboratory testing, neither detonates nor deflagrates at all and shows low or no effect when heated under confinement will be defined as self-reactive chemical TYPE E;

(f) Any self-reactive chemical which, in laboratory testing, neither detonates in the cavitated state nor deflagrates at all and shows only a low or no effect when heated under confinement as well as low or no explosive power will be defined as self-reactive chemical TYPE F;

(g) Any self-reactive chemical which, in laboratory testing, neither detonates in the cavitated state nor deflagrates at all and shows no effect when heated under confinement nor any explosive power, provided that it is thermally stable (self-accelerating decomposition temperature is 60 °C (140 °F) to 75 °C (167 °F) for a 50 kg package), and, for liquid mixtures, a diluent having a boiling point greater than or equal to 150 °C (302 °F) is used for desensitization will be defined as self-reactive chemical TYPE G. If the mixture is not thermally stable or a diluent having a boiling point less than 150°C (302°F) is used for desensitization, the mixture shall be defined as self-reactive chemical TYPE F.

B.8.3 Additional Classification Considerations

B.8.3.1 For purposes of classification, the properties of self-reactive chemicals shall be determined in accordance with test series A to H as described in Part II of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition.*

B.8.3.2 Self-accelerating decomposition temperature (SADT) shall be determined in accordance with the *UN Recommendations for the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition,* Part II, section 28.

B.8.3.3 The classification procedures for self-reactive substances and mixtures need not be applied if:

(a) There are no chemical groups present in the molecule associated with explosive or self-reactive properties; examples of such groups are given in Tables A6.1 and A6.2 in the Appendix 6 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition;* or

(b) For a single organic substance or a homogeneous mixture of organic substances, the estimated SADT is greater than 75°C (167°F) or the exothermic decomposition energy is less than 300 J/g. The onset temperature and decomposition energy may be estimated using a suitable calorimetric technique (see 20.3.3.3 in Part II of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition*).

B.9.1 Definition

Pyrophoric liquid means a liquid which, even in small quantities, is liable to ignite within five minutes after coming into contact with air.

B.9.2 Classification Criteria

A pyrophoric liquid shall be classified in a single category for this class using test N.3 in Part III, sub-section 33.3.1.5 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition,* in accordance with Table B.9.1:

TABLE B.9.1—CRITERIA FOR PYROPHORIC LIQUIDS

Category	Criteria
1	The liquid ignites within 5 min when added to an inert carrier and exposed to air, or it ignites or chars a filter paper on contact with air within 5 min.

B.9.3 Additional Classification Considerations

The classification procedure for pyrophoric liquids need not be applied when experience in production or handling shows that the chemical does not ignite spontaneously on coming into contact with air at normal temperatures (*i.e.* the substance is known to be stable at room temperature for prolonged periods of time (days)).

B.10 PYROPHORIC SOLIDS

B.10.1 Definition

Pyrophoric solid means a solid which, even in small quantities, is liable to ignite within five minutes after coming into contact with air.

B.10.2 Classification Criteria

A pyrophoric solid shall be classified in a single category for this class using test N.2 in Part III, sub-section 33.3.1.4 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition* in accordance with Table B.10.1:

TABLE B.10.1—CRITERIA FOR PYROPHORIC SOLIDS

Category	Criteria
1	The solid ignites within 5 min of coming into contact with air.

Note: Classification of solid chemicals shall be based on tests performed on the chemical as presented. If, for example, for the purposes of supply or transport, the same chemical is to be presented in a physical form different from that which was tested and which is considered likely to materially alter its performance in a classification test, classification must be based on testing of the chemical in the new form.

B.10.3 Additional Classification Considerations

The classification procedure for pyrophoric solids need not be applied when experience in production or handling shows that the chemical does not ignite spontaneously on coming into contact with air at normal temperatures (*i.e.* the chemical is known to be stable at room temperature for prolonged periods of time (days)).

B.11 SELF-HEATING CHEMICALS

B.11.1 Definition

A *self-heating chemical* is a solid or liquid chemical, other than a pyrophoric liquid or solid, which, by reaction with air and without energy supply, is liable to self-heat;

this chemical differs from a pyrophoric liquid or solid in that it will ignite only when in large amounts (kilograms) and after long periods of time (hours or days).

Note: Self-heating of a substance or mixture is a process where the gradual reaction of that substance or mixture with oxygen (in air) generates heat. If the rate of heat production exceeds the rate of heat loss, then the temperature of the substance or mixture will rise which, after an induction time, may lead to self-ignition and combustion.

B.11.2 Classification Criteria

B.11.2.1 A self-heating chemical shall be classified in one of the two categories for this class if, in tests performed in accordance with test method N.4 in Part III, sub-section 33.3.1.6 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition,* the result meets the criteria shown in Table B.11.1.

TABLE B.11.1—CRITERIA FOR SELF-HEATING CHEMICALS

Category	Criteria
1	A positive result is obtained in a test using a 25 mm sample cube at 140 °C (284 °F).
2	A negative result is obtained in a test using a 25 mm cube sample at 140 °C (284 °F), a positive result is obtained in a test using a 100 mm sample cube at 140 °C (284 °F), and: (a) the unit volume of the chemical is more than 3 m^3; or (b) a positive result is obtained in a test using a 100 mm cube sample at 120 °C (248 °F) and the unit volume of the chemical is more than 450 liters; or (c) a positive result is obtained in a test using a 100 mm cube sample at 100 °C (212 °F).

B.11.2.2 Chemicals with a temperature of spontaneous combustion higher than 50 °C (122 °F) for a volume of 27 m^3 shall not be classified as self-heating chemicals.

B.11.2.3 Chemicals with a spontaneous ignition temperature higher than 50 °C (122 °F) for a volume of 450 liters shall not be classified in Category 1 of this class.

B.11.3 Additional Classification Considerations

B.11.3.1 The classification procedure for self-heating chemicals need not be applied if the results of a screening test can be adequately correlated with the classification test and an appropriate safety margin is applied.

B.11.3.2 Examples of screening tests are:

(a) The Grewer Oven test (VDI guideline 2263, part 1, 1990, Test methods for the Determination of the Safety Characteristics of Dusts) with an onset temperature 80°K above the reference temperature for a volume of 1 *l*;

(b) The Bulk Powder Screening Test (Gibson, N. Harper, D.J. Rogers, R. Evaluation of the fire and explosion risks in drying powders, Plant Operations Progress, 4 (3), 181–189, 1985) with an onset temperature 60°K above the reference temperature for a volume of 1 *l*.

B.12 CHEMICALS WHICH, IN CONTACT WITH WATER, EMIT FLAMMABLE GASES

B.12.1 Definition

Chemicals which, in contact with water, emit flammable gases are solid or liquid chemicals which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

B.12.2 Classification Criteria

B.12.2.1 A chemical which, in contact with water, emits flammable gases shall be classified in one of the three categories for this class, using test N.5 in Part III, sub-section 33.4.1.4 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition,* in accordance with Table B.12.1:

TABLE B.12.1—CRITERIA FOR CHEMICALS WHICH, IN CONTACT WITH WATER, EMIT FLAMMABLE GASES

Category	Criteria
1	Any chemical which reacts vigorously with water at ambient temperatures and demonstrates generally a tendency for the gas produced to ignite spontaneously, or which reacts readily with water at ambient temperatures such that the rate of evolution of flammable gas is equal to or greater than 10 liters per kilogram of chemical over any one minute.
2	Any chemical which reacts readily with water at ambient temperatures such that the maximum rate of evolution of flammable gas is equal to or greater than 20 liters per kilogram of chemical per hour, and which does not meet the criteria for Category 1.
3	Any chemical which reacts slowly with water at ambient temperatures such that the maximum rate of evolution of flammable gas is equal to or greater than 1 liter per kilogram of chemical per hour, and which does not meet the criteria for Categories 1 and 2.

Note: Classification of solid chemicals shall be based on tests performed on the chemical as presented. If, for example, for the purposes of supply or transport, the same chemical is to be presented in a physical form different from that which was tested and which is considered likely to materially alter its performance in a classification test, classification must be based on testing of the chemical in the new form.

B.12.2.2 A chemical is classified as a chemical which, in contact with water, emits flammable gases if spontaneous ignition takes place in any step of the test procedure.

B.12.3 Additional Classification Considerations

The classification procedure for this class need not be applied if:

(a) The chemical structure of the chemical does not contain metals or metalloids;

(b) Experience in production or handling shows that the chemical does not react with water, (*e.g.,* the chemical is manufactured with water or washed with water); or

(c) The chemical is known to be soluble in water to form a stable mixture.

B.13 OXIDIZING LIQUIDS

B.13.1 Definition

Oxidizing liquid means a liquid which, while in itself not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other material.

B.13.2 Classification Criteria

An oxidizing liquid shall be classified in one of the three categories for this class using test O.2 in Part III, sub-section 34.4.2 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and*

Criteria, Fourth Revised Edition, in accordance with Table B.13.1:

TABLE B.13.1—CRITERIA FOR OXIDIZING LIQUIDS

Category	Criteria
1	Any chemical which, in the 1:1 mixture, by mass, of chemical and cellulose tested, spontaneously ignites; or the mean pressure rise time of a 1:1 mixture, by mass, of chemical and cellulose is less than that of a 1:1 mixture, by mass, of 50% perchloric acid and cellulose;
2	Any chemical which, in the 1:1 mixture, by mass, of chemical and cellulose tested, exhibits a mean pressure rise time less than or equal to the mean pressure rise time of a 1:1 mixture, by mass, of 40% aqueous sodium chlorate solution and cellulose; and the criteria for Category 1 are not met;
3	Any chemical which, in the 1:1 mixture, by mass, of chemical and cellulose tested, exhibits a mean pressure rise time less than or equal to the mean pressure rise time of a 1:1 mixture, by mass, of 65% aqueous nitric acid and cellulose; and the criteria for Categories 1 and 2 are not met.

B.13.3 Additional Classification Considerations

B.13.3.1 For organic chemicals, the classification procedure for this class shall not be applied if:

(a) The chemical does not contain oxygen, fluorine or chlorine; or

(b) The chemical contains oxygen, fluorine or chlorine and these elements are chemically bonded only to carbon or hydrogen.

B.13.3.2 For inorganic chemicals, the classification procedure for this class shall not be applied if the chemical does not contain oxygen or halogen atoms.

B.13.3.3 In the event of divergence between tests results and known experience in the handling and use of chemicals which shows them to be oxidizing, judgements based on known experience shall take precedence over test results.

B.13.3.4 In cases where chemicals generate a pressure rise (too high or too low), caused by chemical reactions not characterizing the oxidizing properties of the chemical, the test described in Part III, sub-section 34.4.2 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition* shall be repeated with an inert substance (*e.g.,* diatomite (kieselguhr)) in place of the cellulose in order to clarify the nature of the reaction.

B.14 OXIDIZING SOLIDS

B.14.1 Definition

Oxidizing solid means a solid which, while in itself is not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other material.

B.14.2 Classification Criteria

An oxidizing solid shall be classified in one of the three categories for this class using test O.1 in Part III, sub-section 34.4.1 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition,* in accordance with Table B.14.1:

TABLE B.14.1—CRITERIA FOR OXIDIZING SOLIDS

Category	Criteria
1	Any chemical which, in the 4:1 or 1:1 sample-to-cellulose ratio (by mass) tested, exhibits a mean burning time less than the mean burning time of a 3:2 mixture, by mass, of potassium bromate and cellulose.
2	Any chemical which, in the 4:1 or 1:1 sample-to-cellulose ratio (by mass) tested, exhibits a mean burning time equal to or less than the mean burning time of a 2:3 mixture (by mass) of potassium bromate and cellulose and the criteria for Category 1 are not met.
3	Any chemical which, in the 4:1 or 1:1 sample-to-cellulose ratio (by mass) tested, exhibits a mean burning time equal to or less than the mean burning time of a 3:7 mixture (by mass) of potassium bromate and cellulose and the criteria for Categories 1 and 2 are not met.

Note 1: Some oxidizing solids may present explosion hazards under certain conditions (*e.g.,* when stored in large quantities). For example, some types of ammonium nitrate may give rise to an explosion hazard under extreme conditions and the ''Resistance to detonation test'' (IMO: Code of Safe Practice for Solid Bulk Cargoes, 2005, Annex 3, Test 5) may be used to assess this hazard. When information indicates that an oxidizing solid may present an explosion hazard, it shall be indicated on the Safety Data Sheet.

Note 2: Classification of solid chemicals shall be based on tests performed on the chemical as presented. If, for example, for the purposes of supply or transport, the same chemical is to be presented in a physical form different from that which was tested and which is considered likely to materially alter its performance in a classification test, classification must be based on testing of the chemical in the new form.

B.14.3 Additional Classification Considerations

B.14.3.1 For organic chemicals, the classification procedure for this class shall not be applied if:

(a) The chemical does not contain oxygen, fluorine or chlorine; or

(b) The chemical contains oxygen, fluorine or chlorine and these elements are chemically bonded only to carbon or hydrogen.

B.14.3.2 For inorganic chemicals, the classification procedure for this class shall not be applied if the chemical does not contain oxygen or halogen atoms.

B.14.3.3 In the event of divergence between tests results and known experience in the handling and use of chemicals which shows them to be oxidizing, judgements based on known experience shall take precedence over test results.

B.15 ORGANIC PEROXIDES

B.15.1 Definition

B.15.1.1 *Organic peroxide* means a liquid or solid organic chemical which contains the bivalent –0–0– structure and as such is considered a derivative of hydrogen peroxide, where one or both of the hydrogen atoms have been replaced by organic radicals. The term organic peroxide includes organic peroxide mixtures containing at least one organic peroxide. Organic peroxides are thermally unstable chemicals, which may undergo exothermic self-accelerating decomposition. In addition, they may have one or more of the following properties:

(a) Be liable to explosive decomposition;

(b) Burn rapidly;

(c) Be sensitive to impact or friction;

(d) React dangerously with other substances.

B.15.1.2 An organic peroxide is regarded as possessing explosive properties when in laboratory testing the formulation is liable to detonate, to deflagrate rapidly or to show a

violent effect when heated under confinement.

B.15.2 Classification Criteria

B.15.2.1 Any organic peroxide shall be considered for classification in this class, unless it contains:

(a) Not more than 1.0% available oxygen from the organic peroxides when containing not more than 1.0% hydrogen peroxide; or

(b) Not more than 0.5% available oxygen from the organic peroxides when containing more than 1.0% but not more than 7.0% hydrogen peroxide.

Note: The available oxygen content (%) of an organic peroxide mixture is given by the formula:

$$16 \times \sum_{i}^{n} \left(\frac{n_i \times c_i}{m_i} \right)$$

Where:

n_i = number of peroxygen groups per molecule of organic peroxide i;

c_i = concentration (mass %) of organic peroxide i;

m_i = molecular mass of organic peroxide i.

B.15.2.2 Organic peroxides shall be classified in one of the seven categories of ''Types A to G'' for this class, according to the following principles:

(a) Any organic peroxide which, as packaged, can detonate or deflagrate rapidly shall be defined as organic peroxide TYPE A;

(b) Any organic peroxide possessing explosive properties and which, as packaged, neither detonates nor deflagrates rapidly, but is liable to undergo a thermal explosion in that package shall be defined as organic peroxide TYPE B;

(c) Any organic peroxide possessing explosive properties when the chemical as packaged cannot detonate or deflagrate rapidly or undergo a thermal explosion shall be defined as organic peroxide TYPE C;

(d) Any organic peroxide which in laboratory testing:

(i) Detonates partially, does not deflagrate rapidly and shows no violent effect when heated under confinement; or

(ii) Does not detonate at all, deflagrates slowly and shows no violent effect when heated under confinement; or

(iii) Does not detonate or deflagrate at all and shows a medium effect when heated under confinement; shall be defined as organic peroxide TYPE D;

(e) Any organic peroxide which, in laboratory testing, neither detonates nor deflagrates at all and shows low or no effect when heated under confinement shall be defined as organic peroxide TYPE E;

(f) Any organic peroxide which, in laboratory testing, neither detonates in the cavitated state nor deflagrates at all and shows only a low or no effect when heated under confinement as well as low or no explosive power shall be defined as organic peroxide TYPE F;

(g) Any organic peroxide which, in laboratory testing, neither detonates in the cavitated state nor deflagrates at all and shows no effect when heated under confinement nor any explosive power, provided that it is thermally stable (self-accelerating decomposition temperature is 60 °C (140 °F) or higher for a 50 kg package), and, for liquid mixtures, a diluent having a boiling point of not less than 150 °C (302 °F) is used for desensitization, shall be defined as organic peroxide TYPE G. If the organic peroxide is not thermally stable or a diluent having a boiling point less than 150 °C (302 °F) is used for desensitization, it shall be defined as organic peroxide TYPE F.

B.15.3 Additional Classification Considerations

B.15.3.1 For purposes of classification, the properties of organic peroxides shall be determined in accordance with test series A to H as described in Part II of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition.*

B.15.3.2 Self-accelerating decomposition temperature (SADT) shall be determined in accordance with the *UN Recommendations for the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition,* Part II, section 28.

B.15.3.3 Mixtures of organic peroxides may be classified as the same type of organic peroxide as that of the most dangerous ingredient. However, as two stable ingredients can form a thermally less stable mixture, the SADT of the mixture shall be determined.

B.16 CORROSIVE TO METALS

B.16.1 Definition

A *chemical which is corrosive to metals* means a chemical which by chemical action will materially damage, or even destroy, metals.

B.16.2 Classification Criteria

A chemical which is corrosive to metals shall be classified in a single category for this class, using the test in Part III, sub-section 37.4 of the *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth Revised Edition*, in accordance with Table B.16.1:

TABLE B.16.1—CRITERIA FOR CHEMICALS CORROSIVE TO METAL

Category	Criteria
1	Corrosion rate on either steel or aluminium surfaces exceeding 6.25 mm per year at a test temperature of 55 °C (131 °F) when tested on both materials.

Note: Where an initial test on either steel or aluminium indicates the chemical being tested is corrosive the follow-up test on the other metal is not necessary.

B.16.3 Additional classification considerations

The specimen to be used for the test shall be made of the following materials:

(a) For the purposes of testing steel, steel types S235JR+CR (1.0037 resp.St 37–2), S275J2G3+CR (1.0144 resp.St 44–3), ISO 3574, Unified Numbering System (UNS) G 10200, or SAE 1020;

(b) For the purposes of testing aluminium: non-clad types 7075–T6 or AZ5GU–T6.

Appendix C to § 1910.1200– Allocation of Label Elements (Mandatory)

C.1 The label for each hazardous chemical shall include the product identifier used on the safety data sheet

C.1.1 The labels on shipped containers shall also include the name, address, and telephone number of the manufacturer, importer, or responsible party.

C.2 The label for each hazardous chemical that is classified shall include the signal word, hazard statement(s), pictogram(s), and precautionary statement(s) specified in C.4 for each hazard class and associated hazard category, except as provided for in C.2.1 through C.2.4. For unclassified hazards, the label shall include a description of the hazards and appropriate precautions for safe handling and use under supplementary information.

C.2.1 Precedence of Hazard Information

C.2.1.1 If the signal word ''Danger'' is included, the signal word ''Warning'' shall not appear;

C.2.1.2 If the skull and crossbones pictogram is included, the exclamation mark pictogram shall not appear where it is used for acute toxicity;

C.2.1.3 If the corrosive pictogram is included, the exclamation mark pictogram shall not appear where it is used for skin or eye irritation;

C.2.1.4 If the health hazard pictogram is included for respiratory sensitization, the exclamation mark pictogram shall not appear where it is used for skin sensitization or for skin or eye irritation.

C.2.2 Hazard Statement Text

C.2.2.1 The text of all applicable hazard statements shall appear on the label, except as otherwise specified. The information in italics shall be included as part of the hazard statement as provided. For example: ''causes damage to organs *(state all organs affected)* through prolonged or repeated exposure *(state route of exposure if no other routes of exposure cause the hazard)*''. Hazard statements may be combined where appropriate to reduce the information on the label and improve readability, as long as all of the hazards are conveyed as required.

C.2.3 Pictograms

C.2.3.1 Pictograms shall be in the shape of a square set at a point and shall include a black hazard symbol on a white background with a red frame sufficiently wide to be clearly visible.

C.2.3.2 One of eight standard hazard symbols shall be used in each pictogram. The eight hazard symbols are depicted in Figure C.1. A pictogram using the exclamation mark symbol is presented in Figure C.2, for the purpose of illustration.

BILLING CODE 4510–26–P

Figure C.1 – Hazard Symbols and Classes

Flame	Flame Over Circle	Exclamation Mark	Exploding Bomb
			
Flammables Self Reactives Pyrophorics Self-heating Emits Flammable Gas Organic Peroxides	Oxidizers	Irritant Dermal Sensitizer Acute Toxicity (harmful) Narcotic Effects Respiratory Tract Irritation	Explosives Self Reactives Organic Peroxides
Corrosion	**Gas Cylinder**	**Health Hazard**	**Skull and Crossbones**
			
Corrosives	Gases Under Pressure	Carcinogen Respiratory Sensitizer Reproductive Toxicity Target Organ Toxicity Mutagenicity Aspiration Toxicity	Acute Toxicity (severe)

Figure C.2 – Exclamation Mark Pictogram

BILLING CODE 4510–26–C

C.2.3.3 Where a label required by the Department of Transportation under Title 49 of the Code of Federal Regulations appears on a container, the pictogram specified in C.4 for the same hazard shall not appear.

C.2.4 Precautionary Statement Text

C.2.4.1 There are four types of precautionary statements presented, ''prevention,'' ''response,'' ''storage,'' and ''disposal.'' The core part of the precautionary statement is presented in bold print. This is the text, except as otherwise specified, that shall appear on the label. Where additional information is required, it is indicated in plain text.

C.2.4.2 When a backslash or diagonal mark [/] appears in the precautionary statement text, it indicates that a choice has to be made between the separated phrases. In such cases, the manufacturer, importer, or responsible party can choose the most appropriate phrase(s). For example, ''Wear protective gloves/protective clothing/eye protection/face protection'' could read ''wear eye protection''.

C.2.4.3 When three full stops [* * *] appear in the precautionary statement text, they indicate that all applicable conditions are not listed. For example, in ''Use explosion-proof electrical/ventilating/lighting/* * */equipment'', the use of ''* * *'' indicates that other equipment may need to be specified. In such cases, the manufacturer, importer, or responsible party can choose the other conditions to be specified.

C.2.4.4 When text *in italics* is used in a precautionary statement, this indicates specific conditions applying to the use or allocation of the precautionary statement. For example, ''Use explosion-proof electrical/ventilating/lighting/* * */equipment'' is only required for flammable solids ''*if dust clouds can occur*''. Text in italics is intended to be an explanatory, conditional note and is not intended to appear on the label.

C.2.4.5 Precautionary statements may be combined or consolidated to save label space and improve readability. For example, ''Keep away from heat, sparks and open flame,'' ''Store in a well-ventilated place'' and ''Keep cool'' can be combined to read ''Keep away from heat, sparks and open flame and store in a cool, well-ventilated place''.

C.2.4.6 In most cases, the precautionary statements are independent (*e.g.,* the phrases for explosive hazards do not modify those related to certain health hazards and products that are classified for both hazard classes shall bear appropriate precautionary statements for both). Where a chemical is classified for a number of hazards, and the precautionary statements are similar, the most stringent shall be included on the label (this will be applicable mainly to preventive measures). An order of precedence may be imposed by the manufacturer, importer or responsible party in situations where phrases concern ''Response.'' Rapid action may be crucial. For example, if a chemical is carcinogenic and acutely toxic, rapid action may be crucial, and first aid measures for acute toxicity will take precedence over those for long term effects. In addition, medical attention to delayed health effects may be required in cases of incidental exposure, even if not associated with immediate symptoms of intoxication.

C.3 Supplementary Hazard Information

C.3.1 To ensure that non-standardized information does not lead to unnecessarily wide variation or undermine the required information, supplementary information on the label is limited to when it provides further detail and does not contradict or cast doubt on the validity of the standardized hazard information, or when it provides information about unclassified hazards.

C.3.2 Where the manufacturer, importer, or distributor chooses to add supplementary information on the label, the placement of supplemental information shall not impede identification of information required by this section.

C.3.3 Where an ingredient with unknown acute toxicity is used in a mixture at a concentration $\geq 1\%$, a statement that $\times$ percent of the mixture consists of ingredient(s) of unknown toxicity is required on the label.

BILLING CODE 4510–26–P

C.4 REQUIREMENTS FOR SIGNAL WORDS, HAZARD STATEMENTS, PICTOGRAMS, AND PRECAUTIONARY STATEMENTS

C.4.1 ACUTE TOXICITY – ORAL (CLASSIFIED IN ACCORDANCE with appendix A.1)

Pictogram

Skull and crossbones

Hazard category	Signal word	Hazard statement
1	Danger	Fatal if swallowed
2	Danger	Fatal if swallowed

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wash ...thoroughly after handling. ... Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Do not eat, drink or smoke when using this product.**	**If swallowed: Immediately call a poison center or doctor/physician.** **Specific treatment (see ... on this label)** ... Reference to supplemental first aid instruction. - *if immediate administration of antidote is required.* **Rinse mouth.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.1 ACUTE TOXICITY – ORAL (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix A.1)

Pictogram
Skull and crossbones

Hazard category	Signal word	Hazard statement
3	Danger	Toxic if swallowed

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wash ... thoroughly after handling. ... Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Do not eat, drink or smoke when using this product.**	**If swallowed: Immediately call a poison center or doctor/physician.** **Specific treatment (see ... on this label)** ... Reference to supplemental first aid instruction. - *if immediate administration of antidote is required.* **Rinse mouth.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.1 ACUTE TOXICITY – ORAL (CONTINUED)
(CLASSIFIED IN ACCORDANCE with appendix A.1)

Pictogram
Exclamation mark

Hazard category	Signal word	Hazard statement
4	Warning	Harmful if swallowed

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wash ... thoroughly after handling. ... Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Do not eat, drink or smoke when using this product.**	**If swallowed: Call a poison center or doctor/physician if you feel unwell.** **Rinse mouth.**		**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.2 ACUTE TOXICITY - DERMAL
(CLASSIFIED IN ACCORDANCE with Appendix A.1)

Pictogram
Skull and crossbones

Hazard category	Signal word	Hazard statement
1	Danger	Fatal in contact with skin
2	Danger	Fatal in contact with skin

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Do not get in eyes, on skin, or on clothing. **Wash ... thoroughly after handling.** **...** Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Do not eat, drink or smoke when using this product.** **Wear protective gloves/protective clothing.** Manufacturer, importer, or distributor to specify type of equipment.	**If on skin: Gently wash with plenty of soap and water.** **Immediately call a poison center or doctor/physician.** **Specific measures (see ... on this label)** ... Reference to supplemental first aid instruction. - *if immediate measures such as specific cleansing agent is advised.* **Remove/Take off immediately all contaminated clothing.** **Wash contaminated clothing before reuse.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.2 ACUTE TOXICITY – DERMAL (CONTINUED) (CLASSIFIED IN ACCORDANCE with appendix A.1)

Pictogram
Skull and crossbones

Hazard category	Signal word	Hazard statement
3	Danger	Toxic in contact with skin

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wear protective gloves/protective clothing. Manufacturer, importer, or distributor to specify type of equipment.	**If on skin: Wash with plenty of soap and water.** **Call a poison center or doctor/physician if you feel unwell.** **Specific measures (see ... on this label)** ... Reference to supplemental first aid instruction. *- if measures such as specific cleansing agent is advised.* **Remove/Take off immediately all contaminated clothing.** **Wash contaminated clothing before reuse.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.2 ACUTE TOXICITY – DERMAL (CONTINUED)
(CLASSIFIED IN ACCORDANCE with appendix A.1)

Pictogram
Exclamation mark

Hazard category	Signal word	Hazard statement
4	Warning	Harmful in contact with skin

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wear protective gloves/protective clothing Manufacturer, importer, or distributor to specify type of equipment.	**If on skin: Wash with plenty of soap and water.** **Call a poison center or doctor/physician if you feel unwell.** **Specific measures (see ... on this label)** ... Reference to supplemental first aid instruction. - *if measures such as specific cleansing agent is advised.* **Wash contaminated clothing before reuse.**		**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.3 ACUTE TOXICITY - INHALATION
(CLASSIFIED IN ACCORDANCE with appendix A.1)

Pictogram
Skull and crossbones

Hazard category	Signal word	Hazard statement
1	Danger	Fatal if inhaled
2	Danger	Fatal if inhaled

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Do not breathe dust/fume/gas/mist/ vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **Use only outdoors or in a well-ventilated area.** **Wear respiratory protection.** Manufacturer, importer, or distributor to specify equipment.	**If inhaled: Remove victim to fresh air and keep at rest in a position comfortable for breathing.** **Immediately call a poison center or doctor/physician.** **Specific treatment is urgent (see ... on this label)** ... Reference to supplemental first aid instruction. - *if immediate administration of antidote is required.*	**Store in a well-ventilated place. Keep container tightly closed.** - *if product is volatile as to generate hazardous atmosphere.* **Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.3 ACUTE TOXICITY – INHALATION (CONTINUED)
(CLASSIFIED IN ACCORDANCE with appendix A.1)

Pictogram
Skull and crossbones

Hazard category	Signal word	Hazard statement
3	Danger	Toxic if inhaled

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Avoid breathing dust/fume/gas/mist/vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **Use only outdoors or in a well-ventilated area.**	**If inhaled: Remove victim to fresh air and keep at rest in a position comfortable for breathing.** **Call a poison center or doctor/physician.** **Specific treatment (see ... on this label)** ... Reference to supplemental first aid instruction. - *if immediate specific measures are required.*	**Store in a well-ventilated place. Keep container tightly closed.** - *if product is volatile so as to generate hazardous atmosphere.* **Store locked up.**	**Dispose of content/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.3 ACUTE TOXICITY – INHALATION (CONTINUED)
(CLASSIFIED IN ACCORDANCE with appendix A.1)

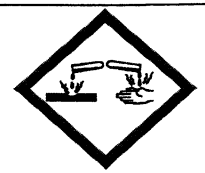
Pictogram
Exclamation mark

Hazard category	Signal word	Hazard statement
4	Warning	Harmful if inhaled

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Avoid breathing dust/fume/gas/mist/ vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **Use only outdoors or in a well-ventilated area.**	**If inhaled: Remove victim to fresh air and keep at rest in a position comfortable for breathing.** **Call a poison center or doctor/physician if you feel unwell.**		

C.4.4 SKIN CORROSION/IRRITATION
(CLASSIFIED IN ACCORDANCE with appendix A.2)

Pictogram
Corrosion



Hazard category	Signal word	Hazard statement
1A to 1C	Danger	Causes severe skin burns and eye damage

Precautionary statements

Prevention	Response	Storage	Disposal
Do not breathe dusts or mists. *- if inhalable particles of dusts or mists may occur during use.* **Wash ...thoroughly after handling.** ...Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Wear protective gloves/protective clothing/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**If swallowed: Rinse mouth. Do NOT induce vomiting.** **If on skin (or hair): Remove/Take off immediately all contaminated clothing. Rinse skin with water/shower.** **Wash contaminated clothing before reuse.** **If inhaled: Remove victim to fresh air and keep at rest in a position comfortable for breathing.** **Immediately call a poison center or doctor/physician.** **Specific treatment (see ... on this label)** ... Reference to supplemental first aid instruction. *- Manufacturer, importer, or distributor may specify a cleansing agent if appropriate.* **If in eyes: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.4 SKIN CORROSION/IRRITATION (CONTINUED) (CLASSIFIED IN ACCORDANCE with appendix A.2)

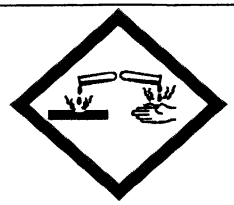
Pictogram
Exclamation mark

Hazard category	Signal word	Hazard statement
2	Warning	Causes skin irritation

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wash ... thoroughly after handling. ... Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Wear protective gloves.** Manufacturer, importer, or distributor to specify type of equipment.	**If on skin: Wash with plenty of soap and water.** **Specific treatment (see ... on this label)** ... Reference to supplemental first aid instruction. - *Manufacturer, importer, or distributor may specify a cleansing agent if appropriate.* **If skin irritation occurs: Get medical advice/attention.** **Take off contaminated clothing and wash before reuse.**		

C.4.5 EYE DAMAGE/IRRITATION
(CLASSIFIED IN ACCORDANCE with appendix A.3)

Pictogram
Corrosion



Hazard category	Signal word	Hazard statement
1	Danger	Causes serious eye damage

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wear eye protection/face protection. Manufacturer, importer, or distributor to specify type of equipment.	**If in eyes: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.** **Immediately call a poison center or doctor/physician.**		

C.4.5 EYE DAMAGE/IRRITATION (CONTINUED) (CLASSIFIED IN ACCORDANCE with appendix A.3)

Hazard category	Signal word	Hazard statement
2A	Warning	Causes serious eye irritation

Pictogram

Exclamation mark

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wash ... thoroughly after handling. ... Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Wear eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**If in eyes: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.** **If eye irritation persists: Get medical advice/attention.**		

C.4.5 EYE DAMAGE/IRRITATION (CONTINUED)
(CLASSIFIED IN ACCORDANCE with appendix A.3)

Pictogram
No Pictogram

Hazard category	Signal word	Hazard statement
2B	Warning	Causes eye irritation

Precautionary statements

Prevention	Response	Storage	Disposal
Wash ... thoroughly after handling. ... Manufacturer, importer, or distributor to specify parts of the body to be washed after handling.	**If in eyes: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.** **If eye irritation persists: Get medical advice/attention.**		

C.4.6 SENSITIZATION - RESPIRATORY
(CLASSIFIED IN ACCORDANCE with appendix A.4)

Pictogram
Health hazard

Hazard category	Signal word	Hazard statement
1 (including both sub-categories 1A and 1B)	Danger	May cause allergy or asthma symptoms or breathing difficulties if inhaled

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Avoid breathing dust/fume/gas/mist/vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **In case of inadequate ventilation wear respiratory protection.** Manufacturer, importer, or distributor to specify equipment	**If inhaled: If breathing is difficult, remove victim to fresh air and keep at rest in a position comfortable for breathing.** **If experiencing respiratory symptoms: Call a poison center or doctor/physician.**		**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.7 SENSITIZATION - SKIN
(CLASSIFIED IN ACCORDANCE with appendix A.4)

Pictogram

Exclamation mark

Hazard category	Signal word	Hazard statement
1 (including both sub-categories 1A and 1B)	Warning	May cause an allergic skin reaction

Precautionary statements

Prevention	Response	Storage	Disposal
Avoid breathing dust/fume/gas/mist/vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **Contaminated work clothing must not be allowed out of the workplace.** **Wear protective gloves.** Manufacturer, importer, or distributor to specify type of equipment.	**If on skin: Wash with plenty of soap and water.** **If skin irritation or rash occurs: Get medical advice/attention.** **Specific treatment (see ... on this label)** ... Reference to supplemental first aid instruction. - *Manufacturer, importer, or distributor may specify a cleansing agent if appropriate.* **Wash contaminated clothing before reuse.**		**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.8 GERM CELL MUTAGENICITY
(CLASSIFIED IN ACCORDANCE with appendix A.5)

Pictogram
Health hazard

Hazard category	Signal word	Hazard statement
1A and 1B	Danger	May cause genetic defects <...>
2	Warning	Suspected of causing genetic defects <...>
		(state route of exposure if no other routes of exposure cause the hazard)

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Obtain special instructions before use. **Do not handle until all safety precautions have been read and understood.** **Use personal protective equipment as required.**	**If exposed or concerned: Get medical advice/attention.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.9 CARCINOGENICITY
(CLASSIFIED IN ACCORDANCE with appendix A.6)

Pictogram
Health hazard

Hazard category	Signal word	Hazard statement
1A and 1B	Danger	May cause cancer <...>
2	Warning	Suspected of causing cancer <...>
		(state route of exposure if no other routes of exposure cause the hazard).

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Obtain special instructions before use. **Do not handle until all safety precautions have been read and understood.** **Use personal protective equipment as required.**	**If exposed or concerned: Get medical advice/attention.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

Note: If a Category 2 carcinogen ingredient is present in the mixture at a concentration between 0.1% and 1%, information is required on the SDS for a product; however, a label warning is optional. If a Category 2 carcinogen ingredient is present in the mixture at a concentration of ≥ 1%, both an SDS and a label is required and the information must be included on each.

C.4.10 TOXIC TO REPRODUCTION
(CLASSIFIED IN ACCORDANCE with appendix A.7)

Pictogram
Health hazard

Hazard category	Signal word	Hazard statement
1A and 1B	Danger	May damage fertility or the unborn child <...> <<...>>
2	Warning	Suspected of damaging fertility or the unborn child <...> <<...>>
		(state specific effect if known)
		(state route of exposure if no other routes of exposure cause the hazard)

Precautionary statements

Prevention	Response	Storage	Disposal
Obtain special instructions before use. **Do not handle until all safety precautions have been read and understood.** **Use personal protective equipment as required.**	**If exposed or concerned: Get medical advice/attention.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.10 TOXIC TO REPRODUCTION (CONTINUED)
(CLASSIFIED IN ACCORDANCE with appendix A.7)
(EFFECTS ON OR VIA LACTATION)

Pictogram
No Pictogram

Hazard category	Signal word	Hazard statement
No designated number	*No signal word*	May cause harm to breast-fed children

(See Table A.7.1 in Appendix A.7)

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Obtain special instructions before use. **Do not breathe dusts or mists.** - *if inhalable particles of dusts or mists may occur during use.* **Avoid contact during pregnancy/while nursing.** **Wash ... thoroughly after handling.** ...Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Do not eat, drink or smoke when using this product.**	**If exposed or concerned: Get medical advice/attention.-**		

C.4.11 SPECIFIC TARGET ORGAN TOXICITY (Single Exposure) (CLASSIFIED IN ACCORDANCE with appendix A.8)

Pictogram

Health hazard

Hazard category	Signal word	Hazard statement
1	Danger	Causes damage to organs <...> <<...>> *(or state all organs affected if known)* *(state route of exposure if no other routes of exposure cause the hazard)*

Precautionary statements

Prevention	Response	Storage	Disposal
Do not breathe dust/fume/gas/mist/ vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **Wash ...thoroughly after handling.** ... Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Do not eat, drink or smoke when using this product.**	**If exposed: Call a poison center or doctor/physician.** **Specific treatment (see ... on this label)** ... Reference to supplemental first aid instruction. - *if immediate measures are required.*	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.11 SPECIFIC TARGET ORGAN TOXICITY (Single Exposure) (CONTINUED) (CLASSIFIED IN ACCORDANCE with appendix A.8)

Pictogram
Health hazard

Hazard category	Signal word	Hazard statement
2	Warning	May cause damage to organs <...> <<...>> *(or state all organs affected, if known)* *(state route of exposure if no other routes of exposure cause the hazard)*

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Do not breathe dust/fume/gas/mist/ vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **Wash ... thoroughly after handling.** ... Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Do not eat, drink or smoke when using this product.**	**If exposed or if you feel unwell: Call a poison center or doctor/physician.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.11 SPECIFIC TARGET ORGAN TOXICITY (Single Exposure) (CONTINUED) (CLASSIFIED IN ACCORDANCE with appendix A.8)

Pictogram

Exclamation mark

Hazard category	Signal word	Hazard statement
3	Warning	May cause respiratory irritation; or May cause drowsiness or dizziness

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Avoid breathing dust/fume/gas/mist/ vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **Use only outdoors or in a well-ventilated area.**	**If Inhaled: Remove victim to fresh air and keep at rest in a position comfortable for breathing.** **Call a poison center or doctor/physician if you feel unwell.**	**Store in a well-ventilated place. Keep container tightly closed.** **-** *if product is volatile so as to generate hazardous atmosphere.* **Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.12 SPECIFIC TARGET ORGAN TOXICITY (Repeated Exposure) (CLASSIFIED IN ACCORDANCE with appendix A.9)

Pictogram
Health hazard

Hazard category	Signal word	Hazard statement
1	Danger	Causes damage to organs <...> through prolonged or repeated exposure <<...>> *(state all organs affected, if known)* *(state route of exposure if no other routes of exposure cause the hazard)*

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Do not breathe dust/fume/gas/mist/ vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions. **Wash ... thoroughly after handling.** ...Manufacturer, importer, or distributor to specify parts of the body to be washed after handling. **Do not eat, drink or smoke when using this product.**	**Get medical advice/attention if you feel unwell.**		**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.12 SPECIFIC TARGET ORGAN TOXICITY (Repeated Exposure) (CONTINUED) (CLASSIFIED IN ACCORDANCE with appendix A.9)

Pictogram
Health hazard

Hazard category	Signal word	Hazard statement
2	Warning	May cause damage to organs <...> through prolonged or repeated exposure <<...>> *(state all organs affected, if known)* *(state route of exposure if no other routes of exposure cause the hazard)*

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Do not breathe dust/fume/gas/mist/ vapors/spray. Manufacturer, importer, or distributor to specify applicable conditions.	**Get medical advice/attention if you feel unwell.**		**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.13 ASPIRATION HAZARD
(CLASSIFIED IN ACCORDANCE with appendix A.10)

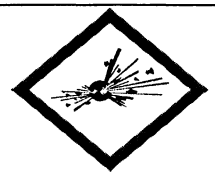
Pictogram
Health hazard

Hazard category	Signal word	Hazard statement
1	Danger	May be fatal if swallowed and enters airways

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
	If Swallowed: Immediately call a poison center or doctor/physician. **Do NOT induce vomiting.**	**Store locked up.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.14 EXPLOSIVES
(CLASSIFIED IN ACCORDANCE with Appendix B.1)

Pictogram
Exploding bomb



Hazard category	Signal word	Hazard statement
Unstable explosive	Danger	Unstable explosive

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Obtain special instructions before use. **Do not handle until all safety precautions have been read and understood.** **Use personal protective equipment as required.**	**Explosion risk in case of fire.** **Do NOT fight fire when fire reaches explosives.** **Evacuate area.**	**Store ...** ...in accordance with local/regional/ national/international regulations (to be specified).	**Dispose of contents/container** **to ...** ...in accordance with local/regional/ national/international regulations (to be specified).

C.4.14 EXPLOSIVES (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.1)

Pictogram
Exploding bomb

Hazard category	Signal word	Hazard statement
Division 1.1	Danger	Explosive; mass explosion hazard
Division 1.2	Danger	Explosive; severe projection hazard
Division 1.3	Danger	Explosive; fire, blast or projection hazard

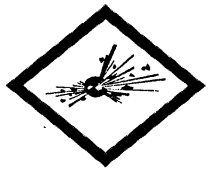
Precautionary statements

Prevention	Response	Storage	Disposal
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Keep wetted with...** ... Manufacturer, importer, or distributor to specify appropriate material. *if drying out increases explosion hazard, except as needed for manufacturing or operating processes (e.g. nitrocellulose).* **Ground/bond container and receiving equipment.** *- if the explosive is electrostatically sensitive.* **Do not subject to grinding/shock/.../friction.** ...Manufacturer, importer, or distributor to specify applicable rough handling. **Wear face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: evacuate area.** **Explosion risk in case of fire.** **Do NOT fight fire when fire reaches explosives.**	**Store ...** ...in accordance with local/regional/national/ international regulations (to be specified).	**Dispose of contents/container to ...** ... in accordance with local/ regional/national/ international regulations (to be specified).

Note: Unpackaged explosives or explosives repacked in packagings other than the original or similar packaging shall have the label elements assigned to Division 1.1 unless the hazard is shown to correspond to one of the hazard categories in Appendix B.1, in which case the corresponding symbol, signal word and/or the hazard statement shall be assigned

C.4.14 EXPLOSIVES (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.1)

Pictogram
Exploding bomb[26]



Hazard category	Signal word	Hazard statement
Division 1.4	Warning	Fire or projection hazard

Precautionary statements[1]			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Ground/bond container and receiving equipment.** *- if the explosive is electrostatically sensitive.* **Do not subject to grinding/shock/.../friction.** Manufacturer, importer, or distributor to specify applicable rough handling. **Wear face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Evacuate area.** **Explosion risk in case of fire.** - except if explosives are 1.4S ammunition and components thereof. **Do NOT fight fire when fire reaches explosives.** **Fight fire with normal precautions from a reasonable distance** - if explosives are 1.4S ammunition and components thereof.	**Store ...** ...in accordance with local/regional/ national/international regulations (to be specified).	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

Note: Unpackaged explosives or explosives repacked in packagings other than the original or similar packaging shall have the label elements assigned to Division 1.1 unless the hazard is shown to correspond to one of the hazard categories in Appendix B.1, in which case the corresponding symbol, signal word and/or the hazard statement shall be assigned[1]

[26] Except if explosives are 1.4S small arms ammunition and components thereof. Labels for 1.4S small arms ammunition and components shall include appropriate precautionary statements.

C.4.14 EXPLOSIVES (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.1)

Pictogram
No pictogram

Hazard category	Signal word	Hazard statement
Division 1.5	Danger	May mass explode in fire

Precautionary statements

Prevention	Response	Storage	Disposal
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). Keep wetted with... ... Manufacturer, importer, or distributor to specify appropriate material. *if drying out increases explosion hazard, except as needed for manufacturing or operating processes (e.g. nitrocellulose).* **Ground/bond container and receiving equipment** *- if the explosive is electrostatically sensitive.* **Do not subject to grinding/shock/.../friction.** ...Manufacturer, importer, or distributor to specify applicable rough handling. **Wear face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Evacuate area.** **Explosion risk in case of fire.** **Do NOT fight fire when fire reaches explosives.**	**Store ...** ...in accordance with local/regional/ national/international regulations (to be specified).	**Dispose of contents/container to ...** ... in accordance with local/regional/ national/international regulations (to be specified).

Note: Unpackaged explosives or explosives repacked in packagings other than the original or similar packaging shall have the label elements assigned to Division 1.1 unless the hazard is shown to correspond to one of the hazard categories in Appendix B.1, in which case the corresponding symbol, signal word and/or the hazard statement shall be assigned

C.4.14 EXPLOSIVES (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.1)

Pictogram
No pictogram

Hazard category	Signal word	Hazard statement
Division 1.6	*No signal word*	*No hazard statement*

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
None assigned.	None assigned	None assigned	None assigned

Note: Unpackaged explosives or explosives repacked in packagings other than the original or similar packaging shall have the label elements assigned to Division 1.1 unless the hazard is shown to correspond to one of the hazard categories in Appendix B.1, in which case the corresponding symbol, signal word and/or the hazard statement shall be assigned

C.4.15 FLAMMABLE GASES
(CLASSIFIED IN ACCORDANCE with Appendix B.2)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
1	Danger	Extremely flammable gas

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces. -No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s).	**Leaking gas fire: Do not extinguish, unless leak can be stopped safely.** **Eliminate all ignition sources if safe to do so.**	**Store in well-ventilated place.**	

C.4.15 FLAMMABLE GASES (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.2)

Pictogram
No Pictogram

Hazard category	Signal word	Hazard statement
2	Warning	Flammable gas

Precautionary statements

Prevention	Response	Storage	Disposal
Keep away from heat/sparks/open flames/hot surfaces. -No smoking. Manufacturer, importer, or distributor to specify applicable ignition sources(s).	**Leaking gas fire: Do not extinguish, unless leak can be stopped safely.** **Eliminate all ignition sources if safe to do so.**	**Store in well-ventilated place.**	

C.4.16 FLAMMABLE AEROSOLS
(CLASSIFIED IN ACCORDANCE with Appendix B.3)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
1	Danger	Extremely flammable aerosol
2	Warning	Flammable aerosol

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces. -No smoking. Manufacturer, importer, or distributor to specify applicable ignition sources(s). **Do not spray on an open flame or other ignition source.** **Pressurized container: Do not pierce or burn, even after use.**		**Protect from sunlight. Do not expose to temperatures exceeding 50 °C/122 °F.**	

C.4.17 OXIDIZING GASES
(CLASSIFIED IN ACCORDANCE with Appendix B.4)

Pictogram
Flame over circle

Hazard category	Signal word	Hazard statement
1	Danger	May cause or intensify fire; oxidizer

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep/Store away from clothing/.../combustible materials. ...Manufacturer, importer, or distributor to specify other incompatible materials. **Keep reduction valves free from grease and oil.**	**In case of fire: Stop leak if safe to do so.**	**Store in well-ventilated place.**	

C.4.18 GASES UNDER PRESSURE
(CLASSIFIED IN ACCORDANCE with Appendix B.5)

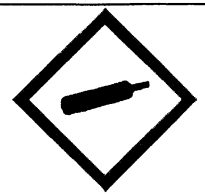
Pictogram
Gas cylinder

Hazard category	Signal word	Hazard statement
Compressed gas	Warning	Contains gas under pressure; may explode if heated
Liquefied gas	Warning	Contains gas under pressure; may explode if heated
Dissolved gas	Warning	Contains gas under pressure; may explode if heated

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
		Protect from sunlight. Store in a well-ventilated place.	

C.4.18 GASES UNDER PRESSURE (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.5)

Pictogram
Gas cylinder



Hazard category	Signal word	Hazard statement
Refrigerated liquefied gas	Warning	Contains refrigerated gas; may cause cryogenic burns or injury

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Wear cold insulating gloves/face shield/eye protection.	**Thaw frosted parts with lukewarm water. Do not rub affected area.** **Get immediate medical advice/attention**	**Store in well-ventilated place.**	

C.4.19 FLAMMABLE LIQUIDS
(CLASSIFIED IN ACCORDANCE with Appendix B.6)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
1	Danger	Extremely flammable liquid and vapor
2	Danger	Highly flammable liquid and vapor
3	Warning	Flammable liquid and vapor

Precautionary statements

Prevention	Response	Storage	Disposal
Keep away from heat/sparks/open flames/hot surfaces.– No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Keep container tightly closed.** **Ground/Bond container and receiving equipment** - *if electrostatically sensitive material is for reloading.* - *if product is volatile* so *as to generate hazardous atmosphere.* **Use explosion-proof electrical/ventilating/ lighting/.../equipment.** ... Manufacturer, importer, or distributor to specify other equipment. **Use only non-sparking tools.** **Take precautionary measures against static discharge.** **Wear protective gloves/eye protection/face protection** Manufacturer, importer, or distributor to specify type of equipment.	**If on skin (or hair): Remove/Take off immediately all contaminated clothing. Rinse skin with water/shower.** **In case of fire: Use ... for extinction.** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*	**Store in a well-ventilated place. Keep cool.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.19 FLAMMABLE LIQUIDS (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.6)

Pictogram
No Pictogram

Hazard category	Signal word	Hazard statement
4	Warning	Combustible liquid

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from flames and hot surfaces. – No smoking. **Wear protective gloves/eye protection/face protection** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Use ... for extinction.** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*	**Store in a well-ventilated place. Keep cool.**	**Dispose of contents/container to...** in accordance with local/regional/national/international regulations (to be specified).

C.4.20 FLAMMABLE SOLIDS
(CLASSIFIED IN ACCORDANCE with Appendix B.7)

Pictogram
Flame

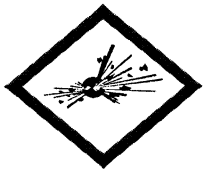
Hazard category	Signal word	Hazard statement
1	Danger	Flammable solid
2	Warning	Flammable solid

Precautionary statements

Prevention	Response	Storage	Disposal
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Ground/Bond container and receiving equipment.** - *if electrostatically sensitive material is for reloading.* **Use explosion-proof electrical/ventilating/ lighting/... /equipment.** ... Manufacturer, importer, or distributor to specify other equipment. - *if dust clouds can occur.* **Wear protective gloves/eye protection/face protection** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Use ... for extinction** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*		

C.4.21 SELF-REACTIVE SUBSTANCES AND MIXTURES (CLASSIFIED IN ACCORDANCE with Appendix B.8)

Pictogram
Exploding bomb



Hazard category	Signal word	Hazard statement
Type A	Danger	Heating may cause an explosion

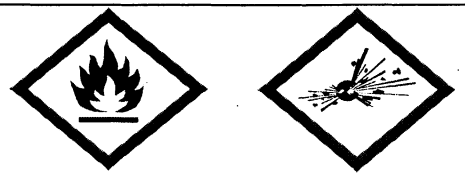
Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Keep/Store away from clothing/.../combustible materials.** ... Manufacturer, importer, or distributor to specify other incompatible materials. **Keep only in original container.** **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Use ... for extinction** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.* **In case of fire: Evacuate area. Fight fire remotely due to the risk of explosion.**	**Store in a well-ventilated place. Keep cool.** **Store at temperatures not exceeding ...°C/...°F.** ... Manufacturer, importer, or distributor to specify temperature. **Store away from other materials.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.21 SELF-REACTIVE substances and mixtures (CONTINUED) (CLASSIFIED IN ACCORDANCE with Appendix B.8)

Hazard category	Signal word	Hazard statement
Type B	Danger	Heating may cause a fire or explosion

Pictograms

Exploding bomb and flame



Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Keep/Store away from clothing/.../combustible materials.** ... Manufacturer, importer, or distributor to specify other incompatible materials. **Keep only in original container.** **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Use ... for extinction.** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk* **In case of fire: Evacuate area. Fight fire remotely due to the risk of explosion.**	**Store in a well-ventilated place. Keep cool.** **Store at temperatures not exceeding ...°C/...°F.** ... Manufacturer, importer, or distributor to specify temperature. **Store away from other materials.**	**Dispose of contents/container to...** ...in accordance with local/regional/national/international regulations (to be specified).

C.4.21 SELF-REACTIVE substances and mixtures(CONTINUED) (CLASSIFIED IN ACCORDANCE with Appendix B.8)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
Type C	Danger	Heating may cause a fire
Type D	Danger	Heating may cause a fire
Type E	Warning	Heating may cause a fire
Type F	Warning	Heating may cause a fire

Precautionary statements

Prevention	Response	Storage	Disposal
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Keep/Store away from clothing/.../combustible materials.** ...Manufacturer, importer, or distributor to specify other incompatible materials. **Keep only in original container.** **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Use ... for extinction** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*	**Store in a well-ventilated place. Keep cool.** **Store at temperatures not exceeding ...°C/...°F.** ...Manufacturer, importer, or distributor to specify temperature. **Store away from other materials.**	**Dispose of contents/container to...** ...in accordance with local/regional/national/international regulations (to be specified).

C.4.22 PYROPHORIC LIQUIDS
(CLASSIFIED IN ACCORDANCE with Appendix B.9)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
1	Danger	Catches fire spontaneously if exposed to air

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition sources(s). **Do not allow contact with air.** **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**If on skin: Immerse in cool water/wrap with wet bandages** **In case of fire: Use ... for extinction** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*	**Store contents under ...** ... Manufacturer, importer, or distributor to specify appropriate liquid or inert gas.	

C.4.23 PYROPHORIC SOLIDS
(CLASSIFIED IN ACCORDANCE with Appendix B.10)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
1	Danger	Catches fire spontaneously if exposed to air

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Do not allow contact with air.** **Wear protective gloves/eye protection/face protection** Manufacturer, importer, or distributor to specify type of equipment.	**Brush off loose particles from skin. Immerse in cool water/wrap in wet bandages.** **In case of fire: Use ... for extinction** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*	**Store contents under ...** ...Manufacturer, importer, or distributor to specify appropriate liquid or inert gas.	

C.4.24 SELF-HEATING SUBSTANCES AND MIXTURES (CLASSIFIED IN ACCORDANCE with appendix B.11)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
1	Danger	Self-heating; may catch fire
2	Warning	Self-heating in large quantities; may catch fire

Precautionary statements

Prevention	Response	Storage	Disposal
Keep cool. Protect from sunlight. **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.		**Maintain air gap between stacks/pallets.** **Store bulk masses greater than ... kg/...lbs at temperatures not exceeding ...°C/...°F.** ... Manufacturer, importer, or distributor to specify mass and temperature. **Store away from other materials.**	

C.4.25 substances and mixtures WHICH, IN CONTACT WITH WATER, EMIT FLAMMABLE GASES (CLASSIFIED IN ACCORDANCE with appendix B.12)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
1	Danger	In contact with water releases flammable gases, which may ignite spontaneously
2	Danger	In contact with water releases flammable gas

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from any possible contact with water, because of violent reaction and possible flash fire. **Handle under inert gas. Protect from moisture.** **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**Brush off loose particles from skin and immerse in cool water/wrap in wet bandages.** **In case of fire: Use ... for extinction** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*	**Store in a dry place. Store in a closed container.**	**Dispose of contents/container to...** ...in accordance with local/regional/national/ international regulations (to be specified).

C.4.25 substances and mixtures WHICH, IN CONTACT WITH WATER, EMIT FLAMMABLE GASES (CONTINUED) (CLASSIFIED IN ACCORDANCE with Appendix B.12)

Pictogram
Flame

Hazard category	Signal word	Hazard statement
3	Warning	In contact with water releases flammable gas

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Handle under inert gas. Protect from moisture. **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Use ... for extinction.** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*	**Store in a dry place. Store in a closed container.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.26 OXIDIZING LIQUIDS
(CLASSIFIED IN ACCORDANCE with Appendix B.13)

Pictogram
Flame over circle

Hazard category	Signal word	Hazard statement
1	Danger	May cause fire or explosion; strong oxidizer

Precautionary statements

Prevention	Response	Storage	Disposal
Keep away from heat. **Keep/Store away from clothing and other combustible materials.** **Take any precaution to avoid mixing with combustibles/...** ... Manufacturer, importer, or distributor to specify other incompatible materials. **Wear protective gloves /eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment. **Wear fire/flame resistant/retardant clothing.**	**If on clothing: Rinse immediately contaminated clothing and skin with plenty of water before removing clothes.** **In case of major fire and large quantities: Evacuate area. Fight fire remotely due to the risk of explosion.** **In case of fire: Use ... for extinction.** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*		**Dispose of contents/container to...** ...in accordance with local/regional/ national/international regulations (to be specified).

C.4.26 OXIDIZING LIQUIDS (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.13)

Pictogram
Flame over circle

Hazard category	Signal word	Hazard statement
2	Danger	May intensify fire; oxidizer
3	Warning	May intensify fire; oxidizer

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat. **Keep/Store away from clothing/.../combustible materials.** ...Manufacturer, importer, or distributor to specify other incompatible materials. **Take any precaution to avoid mixing with combustibles/...** ... Manufacturer, importer, or distributor to specify other incompatible materials. **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Use ... for extinction.** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*		**Dispose of contents/container to...** ...in accordance with local/regional/ national/international regulations (to be specified).

C.4.27 OXIDIZING SOLIDS
(CLASSIFIED IN ACCORDANCE with Appendix B.14)

Pictogram
Flame over circle

Hazard category	Signal word	Hazard statement
1	Danger	May cause fire or explosion; strong oxidizer

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat. **Keep away from clothing and other combustible materials.** **Take any precaution to avoid mixing with combustibles/...** ...Manufacturer, importer, or distributor to specify other incompatible materials. **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment. **Wear fire/flame resistant/retardant clothing.**	**If on clothing: Rinse immediately contaminated clothing and skin with plenty of water before removing clothes.** **In case of major fire and large quantities: Evacuate area. Fight fire remotely due to the risk of explosion.** **In case of fire: Use ... for extinction.** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*		**Dispose of contents/container to...** ...in accordance with local/regional/national/international regulations (to be specified).

C.4.27 OXIDIZING SOLIDS (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.14)

Pictogram
Flame over circle

Hazard category	Signal word	Hazard statement
2	Danger	May intensify fire; oxidizer
3	Warning	May intensify fire; oxidizer

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat. **Keep/Store away from clothing/.../ combustible materials.** ... Manufacturer, importer, or distributor to specify incompatible materials. **Take any precaution to avoid mixing with combustibles/...** ...Manufacturer, importer, or distributor to specify other incompatible materials. **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.	**In case of fire: Use ... for extinction.** ... Manufacturer, importer, or distributor to specify appropriate media. - *if water increases risk.*		**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.28 ORGANIC PEROXIDES
(CLASSIFIED IN ACCORDANCE with Appendix B.15)

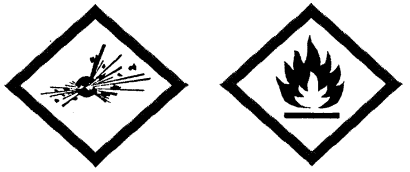
Pictogram
Exploding bomb

Hazard category	Signal word	Hazard statement
Type A	Danger	Heating may cause an explosion

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces.- No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Keep/Store away from clothing/.../combustible materials.** ... Manufacturer, importer, or distributor to specify incompatible materials. **Keep only in original container.** **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.		**Store at temperatures not exceeding ...°C/...°F. Keep cool.** ... Manufacturer, importer, or distributor to specify temperature. **Protect from sunlight.** **Store away from other materials.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.28 ORGANIC PEROXIDES (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.15)

Pictograms
Exploding bomb and flame



Hazard category	Signal word	Hazard statement
Type B	Danger	Heating may cause a fire or explosion

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Keep /Store away from clothing/.../combustible materials.** ... Manufacturer, importer, or distributor to specify incompatible materials. **Keep only in original container.** **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.		**Store at temperatures not exceeding ...°C/...°F. Keep cool.** Manufacturer, importer, or distributor to specify temperature. **Protect from sunlight.** **Store away from other materials.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.28 ORGANIC PEROXIDES (CONTINUED)
(CLASSIFIED IN ACCORDANCE with Appendix B.15)

Pictogram

Flame

Hazard category	Signal word	Hazard statement
Type C	Danger	Heating may cause a fire
Type D	Danger	Heating may cause a fire
Type E	Warning	Heating may cause a fire
Type F	Warning	Heating may cause a fire

Precautionary statements

Prevention	Response	Storage	Disposal
Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Manufacturer, importer, or distributor to specify applicable ignition source(s). **Keep/Store away from clothing/.../ combustible materials** ... Manufacturer, importer, or distributor to specify incompatible materials. **Keep only in original container.** **Wear protective gloves/eye protection/face protection.** Manufacturer, importer, or distributor to specify type of equipment.		**Store at temperatures not exceeding ...°C/...°F. Keep cool.** ... Manufacturer, importer, or distributor to specify temperature. **Protect from sunlight.** **Store away from other materials.**	**Dispose of contents/container to...** ... in accordance with local/regional/national/international regulations (to be specified).

C.4.29 CORROSIVE TO METALS
(CLASSIFIED IN ACCORDANCE with Appendix B.16)

Pictogram
Corrosion

Hazard category	Signal word	Hazard statement
1	Warning	May be corrosive to metals

Precautionary statements			
Prevention	**Response**	**Storage**	**Disposal**
Keep only in original container.	**Absorb spillage to prevent material damage.**	**Store in corrosive resistant/... container with a resistant inner liner.** ... Manufacturer, importer, or distributor to specify other compatible materials.	

BILLING CODE 4510–26–C

Appendix D to § 1910.1200—Safety Data Sheets (Mandatory)

A safety data sheet (SDS) shall include the information specified in Table D.1 under the section number and heading indicated for sections 1–11 and 16. If no relevant information is found for any given subheading, the SDS shall clearly indicate that no applicable information is available. Sections 12–15 may be included in the SDS, but are not mandatory.

TABLE D.1—MINIMUM INFORMATION FOR AN SDS

1. Identification	(a) Product identifier used on the label; (b) Other means of identification; (c) Recommended use of the chemical and restrictions on use; (d) Name, address, and telephone number of the manufacturer, importer, or other responsible party; (e) Emergency phone number.
2. Hazard(s) identification	(a) Classification of the chemical in accordance with paragraph (d) of this section; (b) Signal word, hazard statement(s), symbol(s) and precautionary statement(s) in accordance with paragraph (f) of this section. (Hazard symbols may be provided as graphical reproductions or the name of the symbol, *e.g.,* flame, skull and crossbones); (c) Unclassified hazards (*e.g.,* combustible dust or dust explosion hazard); (d) Where an ingredient with unknown acute toxicity is used in a mixture at a concentration ≥ 1%, a statement that × percent of the mixture consists of ingredient(s) of unknown toxicity is required.
3. Composition/information on ingredients	Except as provided for in paragraph (i) of this section on trade secrets: *For Substances* (a) Chemical name; (b) Common name and synonyms; (c) CAS number and other unique identifiers; (d) Impurities and stabilizing additives which are themselves classified and which contribute to the classification of the substance. *For Mixtures* The chemical name and concentration or concentration ranges of all ingredients which are classified as health hazards in accordance with paragraph (d) of this section. *For All Chemicals Where a Trade Secret is Claimed* Where a trade secret is claimed in accordance with paragraph (i) of this section, a statement that the specific chemical identity and/or percentage of composition has been withheld as a trade secret is required.
4. First-aid measures	(a) Description of necessary measures, subdivided according to the different routes of exposure, *i.e.,* inhalation, skin and eye contact, and ingestion; (b) Most important symptoms/effects, acute and delayed. (c) Indication of immediate medical attention and special treatment needed, if necessary.
5. Fire-fighting measures	(a) Suitable (and unsuitable) extinguishing media. (b) Specific hazards arising from the chemical (*e.g.,* nature of any hazardous combustion products). (c) Special protective equipment and precautions for fire-fighters.
6. Accidental release measures	(a) Personal precautions, protective equipment, and emergency procedures. (b) Methods and materials for containment and cleaning up.
7. Handling and storage	(a) Precautions for safe handling. (b) Conditions for safe storage, including any incompatibilities.
8. Exposure controls/personal protection	(a) OSHA permissible exposure limit (PEL) and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the safety data sheet. (b) Appropriate engineering controls. (c) Individual protection measures, such as personal protective equipment.
9. Physical and chemical properties	(a) Appearance (physical state, color, *etc.*); (b) Odor; (c) Odor threshold; (d) pH; (e) Melting point/freezing point; (f) Initial boiling point and boiling range; (g) Flash point; (h) Evaporation rate; (i) Flammability (solid, gas); (j) Upper/lower flammability or explosive limits; (k) Vapor pressure; (l) Vapor density; (m) Relative density; (n) Solubility(ies); (o) Partition coefficient: n-octanol/water; (p) Auto-ignition temperature; (q) Decomposition temperature; (r) Viscosity.
10. Stability and reactivity	(a) Reactivity; (b) Chemical stability; (c) Possibility of hazardous reactions; (d) Conditions to avoid (*e.g.,* static discharge, shock, or vibration);

TABLE D.1—MINIMUM INFORMATION FOR AN SDS—Continued

	(e) Incompatible materials; (f) Hazardous decomposition products.
11. Toxicological information	Description of the various toxicological (health) effects and the available data used to identify those effects, including: (a) information on the likely routes of exposure (inhalation, ingestion, skin and eye contact); (b) Symptoms related to the physical, chemical and toxicological characteristics; (c) Delayed and immediate effects and also chronic effects from short and long term exposure; (d) Numerical measures of toxicity (such as acute toxicity estimates).
12. Ecological information (Non-mandatory).	(a) Ecotoxicity (aquatic and terrestrial, where available); (b) Persistence and degradability; (c) Bioaccumulative potential; (d) Mobility in soil; (e) Other adverse effects (such as hazardous to the ozone layer).
13. Disposal considerations (Non-mandatory) ...	Description of waste residues and information on their safe handling and methods of disposal, including the disposal of any contaminated packaging.
14. Transport information (Non-mandatory)	(a) UN number; (b) UN proper shipping name; (c) Transport hazard class(es); (d) Packing group, if applicable; (e) Environmental hazards (e.g., Marine pollutant (Yes/No)); (f) Transport in bulk (according to Annex II of MARPOL 73/78 and the IBC Code); (g) Special precautions which a user needs to be aware of, or needs to comply with, in connection with transport or conveyance either within or outside their premises.
15. Regulatory information (Non-mandatory)	Safety, health and environmental regulations specific for the product in question.
16. Other information, including date of preparation or last revision.	The date of preparation of the SDS or the last change to it.

* * * * *

Appendix F to § 1910.1200– Guidance for Hazard Classifications Re: Carcinogenicity (Non-Mandatory)

The mandatory criteria for classification of a chemical for carcinogenicity are found in Chapter A.6. However, as noted in Footnote 5 of that chapter, the GHS also included as guidance for classifiers the following information taken from the International Agency for Research on Cancer (IARC) *Monographs programme on the evaluation of the strength and evidence of carcinogenic risks to humans*. This guidance is consistent with Chapter A. 6, and should help in evaluating information to determine carcinogenicity.

Background Guidance

Carcinogenicity in Humans

The evidence relevant to carcinogenicity from studies in humans is classified into one of the following categories:

(a) *Sufficient evidence of carcinogenicity:* A causal relationship has been established between exposure to the agent, mixture or exposure circumstance and human cancer. That is, a positive relationship has been observed between the exposure and cancer in studies in which chance, bias and confounding could be ruled out with reasonable confidence; or,

(b) *Limited evidence of carcinogenicity:* A positive association has been observed between exposure to the agent, mixture or exposure circumstance and cancer for which a causal interpretation is considered by the working group to be credible, but chance, bias or confounding could not be ruled out with reasonable confidence.

In some instances the above categories may be used to classify the degree of evidence related to carcinogenicity in specific organs or tissues.

Carcinogenicity in Experimental Animals

The evidence relevant to carcinogenicity in experimental animals is classified into one of the following categories:

(a) *Sufficient evidence of carcinogenicity:* A causal relationship has been established between the agent or mixture and an increased incidence of malignant neoplasms or of an appropriate combination of benign and malignant neoplasms in (i) two or more species of animals or (ii) in two or more independent studies in one species carried out at different times or in different laboratories or under different protocols;

(b) Exceptionally, a single study in one species might be considered to provide sufficient evidence of carcinogenicity when malignant neoplasms occur to an unusual degree with regard to incidence, site, type of tumor or age at onset; or,

(c) *Limited evidence of carcinogenicity:* The data suggest a carcinogenic effect but are limited for making a definitive evaluation because, for example, (i) the evidence of carcinogenicity is restricted to a single experiment; or (ii) there are unresolved questions regarding the adequacy of the design, conduct or interpretation of the study; or (iii) the agent or mixture increases the incidence only of benign neoplasms or lesions of uncertain neoplastic potential, or of certain neoplasms which may occur spontaneously in high incidences in certain strains.

*Guidance on How to Consider Important Factors in Classification of Carcinogenicity**

This section provides some considerations and an approach to analysis, rather than hard-and- fast rules. The weight of evidence analysis called for in GHS is an integrative approach which considers important factors in determining carcinogenic potential along with the strength of evidence analysis. The IPCS ''*Conceptual Framework for Evaluating a Mode of Action for Chemical carcinogenesis''* (2001), the International Life Sciences Institute (ILSI) ''*Framework for Human Relevance Analysis of Information on Carcinogenic Modes of Action''* (Meek *et al.*, 2003; Cohen *et al.*, 2003, 2004) and the IARC (Preamble section 12(b)) provide a basis for systematic assessments which may be performed in a consistent fashion. The IPCS also convened a panel in 2004 to further develop and clarify the human relevance framework. However, the available documents are not intended to dictate answers, nor provide lists of criteria to be checked off.

Mode of Action

Various documents on carcinogen assessment all note that mode of action in and of itself, or consideration of comparative metabolism, should be evaluated on a case-by-case basis and are part of an analytic evaluative approach. One must look closely at any mode of action in animal experiments taking into consideration comparative toxicokinetics/toxicodynamics between the animal test species and humans to determine the relevance of the results to humans. This may lead to the possibility of discounting very specific effects of certain types of substances. Life stage-dependent effects on cellular differentiation may also lead to qualitative differences between animals and humans. Only if a mode of action of tumor development is conclusively determined not to be operative in humans may the carcinogenic evidence for that tumor be discounted. However, a weight of evidence evaluation for a substance calls for any other tumorigenic activity to be evaluated, as well.

Responses in Multiple Animal Experiments

Positive responses in several species add to the weight of evidence that a substance is a carcinogen. Taking into account all of the factors listed in A.6.2.5.2 and more, such chemicals with positive outcomes in two or more species would be provisionally considered to be classified in GHS Category 1B until human relevance of animal results are assessed in their entirety. It should be noted, however, that positive results for one species in at least two independent studies, or a single positive study showing unusually strong evidence of malignancy may also lead to Category 1B.

Responses Are in One Sex or Both Sexes

Any case of gender-specific tumors should be evaluated in light of the total tumorigenic response to the substance observed at other sites (multi-site responses or incidence above background) in determining the carcinogenic potential of the substance.

If tumors are seen only in one sex of an animal species, the mode of action should be carefully evaluated to see if the response is consistent with the postulated mode of action. Effects seen only in one sex in a test species may be less convincing than effects seen in both sexes, unless there is a clear patho-physiological difference consistent with the mode of action to explain the single sex response.

Confounding Effects of Excessive Toxicity or Localized Effects

Tumors occurring only at excessive doses associated with severe toxicity generally have doubtful potential for carcinogenicity in humans. In addition, tumors occurring only at sites of contact and/or only at excessive doses need to be carefully evaluated for human relevance for carcinogenic hazard. For example, forestomach tumors, following administration by gavage of an irritating or corrosive, non-mutagenic chemical, may be of questionable relevance. However, such determinations must be evaluated carefully in justifying the carcinogenic potential for humans; any occurrence of other tumors at distant sites must also be considered.

Tumor Type, Reduced Tumor Latency

Unusual tumor types or tumors occurring with reduced latency may add to the weight of evidence for the carcinogenic potential of a substance, even if the tumors are not statistically significant.

Toxicokinetic behaviour is normally assumed to be similar in animals and humans, at least from a qualitative perspective. On the other hand, certain tumor types in animals may be associated with toxicokinetics or toxicodynamics that are unique to the animal species tested and may not be predictive of carcinogenicity in humans. Very few such examples have been agreed internationally. However, one example is the lack of human relevance of kidney tumors in male rats associated with compounds causing α2u-globulin nephropathy (IARC, Scientific Publication N° 147). Even when a particular tumor type may be discounted, expert judgment must be used in assessing the total tumor profile in any animal experiment.

**References:*

Cohen, S.M., J. Klaunig, M.E. Meek, R.N. Hill, T. Pastoor, L. Lehman-McKeeman, J. Bucher, D.G. Longfellow, J. Seed, V. Dellarco, P. Fenner-Crisp, and D. Patton. 2004. Evaluating the human relevance of chemically induced animal tumors. Toxicol. Sci., 78(2): 181–186.

Cohen, S.M., M.E. Mkke, J.E. Klaunig, D.E. Patton, P.A. Fenner-Crisp. 2003. The human relevance of information on carcinogenic modes of action: overview. Crit. Rev. Toxicol. 33(6), 581–9.

Meek, M.E., J.R. Bucher, S.M. Cohen, V. Dellarco, R.N. Hill, L. Lehman-McKeeman, D.G. Longfellow, T. Pastoor, J. Seed, D.E. Patton. 2003. A framework for human relevance analysis of information on carcinogenic modes of action. Crit. Rev. Toxicol., 33(6), 591–653.

Sonich-Mullin, C., R. Fielder, J. Wiltse, K. Baetcke, J. Dempsey, P. Fenner-Crisp, D. Grant, M. Hartley, A. Knapp, D. Kroese, I. Mangelsdorf, E. Meek, J.M. Rice, and M. Younes. 2001. The Conceptual Framework for Evaluating a Mode of Action for Chemical Carcinogenesis. Reg. Tox. Pharm. 34, 146–152.

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International Agency for Research on Cancer. IARC Monographs on the Evaluation of Carcinogenic Risks to Human. Preambles to volumes. World Health Organization. Lyon, France.

S.M. Cohen, P.A. Fenner-Crisp, and D.E. Patton. 2003. Special Issue: Cancer Modes of Action and Human Relevance. Critical Reviews in Toxicology, R.O. McClellan, ed., Volume 33/Issue 6. CRC Press.

C.C. Capen, E. Dybing and J.D. Wilbourn. 1999. Species differences in Thyroid, Kidney and Urinary Bladder Carcinogenesis. International Agency for Research on Cancer, Scientific Publication N° 147.

32. Amend § 1910.1450 as follows:

A. Remove the definitions of *Combustible Liquid, Compressed gas, Explosive, Flammable, Flashpoint, Organic peroxide, Oxidizer, Unstable (reactive)*, and *Water-reactive* from paragraph (b).

B. Revise the definitions of *Hazardous chemical, Physical hazard*, and *Reproductive toxins* in paragraph (b);

C. Add definitions of *Health hazard* and *Mutagen* in alphabetical order in paragraph (b); and

D. Amend paragraphs (f)(3)(v), (h)(1), (h)(1)(ii) and (h)(2)(iii) by removing the phrase ''material safety data sheets'' and inserting the phrase ''safety data sheets'' in its place.

The revisions and additions read as follows:

§ 1910.1450 Occupational exposure to hazardous chemicals in laboratories.

* * * * *

(b) * * *

Hazardous chemical means any chemical that is defined as a hazardous chemical in accordance with the Hazard Communication Standard (29 CFR 1910.1200). Appendices A and B of the Hazard Communication Standard provide criteria for classification of health hazards and physical hazards.

Health hazard means a chemical that is classified as posing one of the following hazardous effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenity; reproductive toxicity; specific target organ toxicity (single or repeated exposure); or aspiration hazard. The criteria for determining whether a chemical is classified as a health hazard are detailed in Appendix A of the Hazard Communication Standard (29 CFR 1910.1200).

* * * * *

Mutagen means chemicals that cause permanent changes in the amount or structure of the genetic material in a cell. Chemicals classified as mutagens in accordance with the Hazard Communication Standard (29 CFR 1910.1200) shall be considered mutagens for purposes of this section.

* * * * *

Physical hazard means a chemical that is classified as posing one of the following hazardous effects: explosive; flammable (gases, aerosols, liquids, or solids); oxidizer (liquid, solid, or gas); self reactive; pyrophoric (liquid or solid); self-heating; organic peroxide; corrosive to metal; gas under pressure; or in contact with water emits flammable gas. The criteria for determining whether a chemical is classified as a physical hazard are in Appendix B of the Hazard Communication Standard (29 CFR 1910.1200).

* * * * *

Reproductive toxins means chemicals that affect the reproductive capabilities including adverse effects on sexual function and fertility in adult males and females, as well as adverse effects on the development of the offspring. Chemicals classified as reproductive toxins in accordance with the Hazard Communication Standard (29 CFR 1910.1200) shall be considered reproductive toxins for purposes of this section.

* * * * *

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

33. Revise the authority citation for part 1915 to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160) as applicable; 29 CFR Part 1911.

Section 1915.120 and 1915.152 of 29 CFR also issued under 29 CFR part 1911.

Subpart Z—[Amended]

34. Amend § 1915.1001 to revise paragraphs (i)(3), (k)(7), and (k)(8) to read as follows:

§ 1915.1001 Asbestos.

* * * * *

(i) * * *

(3) The employer shall ensure that contaminated clothing is transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with paragraph (k) of this section.

* * * * *

(k) * * *

(7) *Hazard Communication.*

(i) Labels shall be affixed to all products containing asbestos and to all containers containing such products, including waste containers. Where feasible, installed asbestos products shall contain a visible label.

(ii) *General*—The employer shall include asbestos in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of asbestos and safety data sheets, and is trained in accordance with the provisions of the HCS and paragraph (k)(9) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer and lung effects.

(iii) The provisions for labels required in this paragraph do not apply where:

(A) Asbestos fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that, during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the permissible exposure limit and/or excursion limit will be released, or

(B) Asbestos is present in a product in concentrations less than 1.0 percent.

(8) *Signs.*

(i) Warning signs that demarcate the regulated area shall be provided and displayed at each location where a regulated area is required to be established by paragraph (e) of this section. Signs shall be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(ii) The warning signs required by this paragraph shall bear the following legend:

DANGER

ASBESTOS

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS

AUTHORIZED PERSONNEL ONLY

(iii) In addition, where the use of respirators and protective clothing is required in the regulated area under this section, the warning signs shall include the following:

WEAR RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING IN THIS AREA

(iv) The employer shall ensure that employees working in and contiguous to regulated areas comprehend the warning signs required to be posted by this paragraph. Means to ensure employee comprehension may include the use of foreign languages, pictographs, and graphics.

(v) When a building/vessel owner or employer identifies previously installed PACM and/or ACM, labels or signs shall be affixed or posted so that employees will be notified of what materials contain PACM and/or ACM. The employer shall attach such labels in areas where they will clearly be noticed by employees who are likely to be exposed, such as at the entrance to mechanical room/areas. Signs required by paragraph (k)(6) of this section may be posted in lieu of labels so long as they contain information required for labeling. The employer shall ensure, to the extent feasible, that employees who come in contact with these signs or labels can comprehend them. Means to ensure employee comprehension may include the use of foreign languages, pictographs, graphics, and awareness training.

* * * * *

35. Amend § 1915.1026 to revise paragraphs (g)(2)(iv) and (j)(1) to read as follows:

§ 1915.1026 Chromium (VI).

* * * * *

(g) * * *

(2) * * *

(iv) The employer shall ensure that bags or containers of contaminated protective clothing or equipment that are removed from change rooms for laundering, cleaning, maintenance, or disposal are labeled in accordance with the requirements of the Hazard Communication standard, 29 CFR 1910.1200.

* * * * *

(j) * * *

(1) *Hazard communication.* The employer shall include chromium (VI) in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of chromium (VI) and safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (j)(2) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; skin sensitization; and eye irritation .

* * * * *

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Subpart D—[Amended]

36. The authority citation for subpart D is revised to read as follows:

Authority: Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); and Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31159), as applicable; and 29 CFR part 1911.

Sections 1926.58, 1926.59, 1926.60, and 1926.65 also issued under 5 U.S.C. 553 and 29 CFR part 1911.

Section 1926.62 of 29 CFR also issued under section 1031 of the Housing and Community Development Act of 1992 (42 U.S.C. 4853).

Section 1926.65 of 29 CFR also issued under section 126 of the Superfund Amendments and Reauthorization Act of 1986, as amended (reprinted at 29 U.S.C.A. 655 Note), and 5 U.S.C. 553.

37. Amend § 1926.60 to revise paragraph (j)(2)(v), (l)(1), and (l)(2) to read as follows:

§ 1926.60 Methylenedianiline.

* * * * *

(j) * * *

(2) * * *

(v) Containers of MDA-contaminated protective work clothing or equipment that are to be taken out of decontamination areas or the workplace

for cleaning, maintenance, or disposal, shall bear labels warning of the hazards of MDA. The employer shall ensure that labels are consistent with requirements in paragraph (l) and that labels include at least the following information:

DANGER

CONTAINS METHYLENEDIANILINE (MDA)

MAY CAUSE CANCER

CAUSES DAMAGE TO THE LIVER

* * * * *

(l) * * *

(1) *Hazard communication*. The employer shall include MDA in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of MDA and safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (l)(3) of this section. The employer shall ensure that at least the following hazards are addressed: Cancer; liver effects; and skin sensitization.

(2) The employer shall post and maintain legible signs demarcating regulated areas and entrances or access ways to regulated areas that bear the following legend:

DANGER

MDA

MAY CAUSE CANCER

CAUSES DAMAGE TO THE LIVER

RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING MAY BE REQUIRED IN THIS AREA

AUTHORIZED PERSONNEL ONLY

* * * * *

38. Amend § 1926.62 to revise paragraph (g)(2)(vii), the heading of paragraph (l) and paragraph (l)(1)(i) and paragraph (m) to read as follows:

§ 1926.62 Lead.

* * * * *

(g) * * *

(2) * * *

(vii) The employer shall ensure that the containers of contaminated protective clothing and equipment required by paragraph (g)(2)(v) of this section are labeled as follows:

DANGER: CLOTHING AND EQUIPMENT CONTAMINATED WITH LEAD. MAY DAMAGE FERTILITY OR THE UNBORN CHILD

CAUSES DAMAGE TO THE CENTRAL NERVOUS SYSTEM

DO NOT EAT, DRINK, OR SMOKE WHEN HANDLING

DO NOT REMOVE DUST BY BLOWING OR SHAKING

* * * * *

(l) *Communication of Hazards*

(1) * * *

(i) *Hazard communication*. The employer shall include lead in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of lead and safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (l). The employer shall ensure that at least the following hazards are addressed: Reproductive/developmental toxicity; central nervous system effects; kidney effects; blood effects; and acute toxicity effects.

* * * * *

(m) *Signs*.

(1) *General*.

(i) The employer shall post the following warning signs in each work area where an employees exposure to lead is above the PEL.

DANGER LEAD

MAY DAMAGE FERTILITY OR THE UNBORN CHILD

CAUSES DAMAGE TO THE CENTRAL NERVOUS SYSTEM

DO NOT EAT, DRINK OR SMOKE IN THIS AREA

(ii) The employer shall ensure that no statement appears on or near any sign required by this paragraph that contradicts or detracts from the meaning of the required sign.

(iii) The employer shall ensure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(iv) The employer may use signs required by other statutes, regulations or ordinances in addition to, or in combination with, signs required by this paragraph.

(2) [Reserved]

* * * * *

39. Amend § 1926.64 to revise paragraphs (a)(1)(ii) introductory text and (a)(1)(ii)(B) to read as follows:

§ 1926.64 Process safety management of highly hazardous chemicals.

* * * * *

(a) * * *

(1) * * *

(ii) A process which involves a Category 1 flammable gas (as defined in 1910.1200 (c) or flammable liquid with a flashpoint below 100 °F (37.8 °C) on site in one location, in a quantity of 10,000 pounds (4535.9 kg) or more except for:

* * * * *

(B) Flammable liquids with a flashpoint below 100 °F (37.8 °C) stored in atmospheric tanks or transferred that are kept below their normal boiling point without benefit of chilling or refrigeration.

* * * * *

40. Amend § 1926.65 (a)(3) to revise the definition of ''Health hazard'' to read as follows:

§ 1926.65 Hazardous waste operations and emergency response.

(a) * * *

(3) * * *

Health hazard means a chemical or a pathogen where acute or chronic health effects may occur in exposed employees. It also includes stress due to temperature extremes. The term ''health hazard'' includes chemicals that are classified in accordance with the Hazard Communication Standard, 29 CFR 1910.1200, as posing one of the following effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; target organ specific systemic toxicity (single or repeated dose); or aspiration toxicity.

* * * * *

Subpart F—[Amended]

41. Revise the authority citation for subpart F to read as follows:

Authority: Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*); Sections 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736),1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (62 FR 50017), 5–2002 (67 FR 650008), or 5–2007 (72 FR 31159), as applicable; and 29 CFR part 1911.

42. Amend § 1926.152 as follows:

A. Revise the section heading;

B. Remove the words ''and combustible'' from the first sentence in paragraphs (a)(1), (b) introductory text, (b)(2) introductory text, and (b)(4)(viii);

C. Remove the words ''or combustible'' in paragraphs (a)(2), (b)(1), (b)(4)(iii), (b)(5), (c)(3), (d) introductory

text, (d)(1), (d)(4), (e)(1), (e)(3), (f)(2), (g)(1), (g)(8), (i)(1)(i)(D), (i)(1)(i)(F), (i)(1)(iii)(D), (i)(2)(ii)(A), (i)(2)(ii) (D), (i)(2)(ii)(F), (i)(2)(vii)(B)(*2*), (i)(4)(iv)(C), (i)(5)(vi)(A),(i)(5(vi)(D), (i)(5)(vi)(G), (i)(5)(vi)(V) introductory text, (i)(5)(vi)(V)(*1*); (j)(1)(i), (j)(2)(ii), (j)(5), and (k)(4);

D. Amend the fifth sentence of paragraph (b)(4)(vi) by inserting the words ''Category 1, 2, or 3'' in front of the words ''flammable liquids;''

E. Amend the first sentence of paragraphs (e)(2); (e)(5); (g)(7)(i); (g)(7)(ii); by inserting the words ''Category 1, 2, or 3'' in front of the words ''flammable liquids;''

F. Amend the first sentence of paragraphs (f)(1) and (f)(3) by removing ''Flammable liquids'' and inserting ''Category 1, 2, or 3 flammable liquids'' in its place;

G. Revise paragraphs (b)(2)(iii), (b)(3), (h) introductory text, (i)(2)(iv)(F), (i)(2)(iv)(G), (i)(2)(vi)(B), (i)(2)(viii)(E), (i)(3)(i), (i)(3)(iv)(A) and (C), (i)(3)(v)(D), (i)(4)(iv)(E), and (k)(3)(iv).; and

(H) Amend paragraph (k)(3)(i) by revising Table F–19.

The revisions read as follows:

§ 1926.152 Flammable liquids.

* * * * *

(b) * * *

(2) * * *

(iii) Cabinets shall be labeled in conspicuous lettering, ''Flammable-Keep Away from Open Flames.''

(3) Not more than 60 gallons of Category 1, 2 and 3 flammable liquids or 120 gallons of Category 4 flammable liquids shall be stored in any one storage cabinet. Not more than three such cabinets may be located in a single storage area. Quantities in excess of this shall be stored in an inside storage room.

* * * * *

(h) *Scope.* This section applies to the handling, storage, and use of flammable liquids with a flashpoint at or below 199.4 °F (93 °C). This section does not apply to:

* * * * *

(i) * * *

(2) * * *

(iv) * * *

(F) Tanks and pressure vessels storing Category 1 flammable liquids shall be equipped with venting devices that shall be normally closed except when venting to pressure or vacuum conditions. Tanks and pressure vessels storing Category 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be equipped with venting devices that shall be normally closed except when venting under pressure or vacuum conditions, or with approved flame arresters. ''Exemption to paragraph (i)(2)(iv)(F):'' Tanks of 3,000 bbls (84 m(3)) capacity or less containing crude petroleum in crude-producing areas; and, outside aboveground atmospheric tanks under 1,000 gallons (3,785 L) capacity containing other than Category 1 flammable liquids may have open vents. (See paragraph (i)(2)(vi)(B) of this section.)

(G) Flame arresters or venting devices required in paragraph (i)(2)(iv)(F) of this section may be omitted for Category 2 flammable liquids or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C) where conditions are such that their use may, in case of obstruction, result in tank damage.

* * * * *

(vi) * * *

(B) Where vent pipe outlets for tanks storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), are adjacent to buildings or public ways, they shall be located so that the vapors are released at a safe point outside of buildings and not less than 12 feet (3.658 m) above the adjacent ground level. In order to aid their dispersion, vapors shall be discharged upward or horizontally away from closely adjacent walls. Vent outlets shall be located so that flammable vapors will not be trapped by eaves or other obstructions and shall be at least 5 feet (1.52 m) from building openings.

(viii) * * *

(E) For Category 2 flammable liquids or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), other than crude oils, gasolines, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity. A fill pipe entering the top of a tank shall terminate within 6 inches (15.24 cm) of the bottom of the tank and shall be installed to avoid excessive vibration.

* * * * *

(3) * * *

(i) *Location.* Evacuation for underground storage tanks shall be made with due care to avoid undermining of foundations of existing structures. Underground tanks or tanks under buildings shall be so located with respect to existing building foundations and supports that the loads carried by the latter cannot be transmitted to the tank. The distance from any part of a tank storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), to the nearest wall of any basement or pit shall be not less than 1 foot (0.304 m), and to any property line that may be built upon, not less than 3 feet (0.912 m). The distance from any part of a tank storing Category 3 flammable liquids with a flashpoint at or above to 100 °F (37.8 °C) or Category 4 flammable liquids to the nearest wall of any basement, pit or property line shall be not less than 1 foot (0.304 m).

* * * * *

(iv) * * *

(A) Location and arrangement of vents for Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C). Vent pipes from tanks storing Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be so located that the discharge point is outside of buildings, higher than the fill pipe opening, and not less than 12 feet (3.658 m) above the adjacent ground level. Vent pipes shall discharge only upward in order to disperse vapors. Vent pipes 2 inches (5.08 cm) or less in nominal inside diameter shall not be obstructed by devices that will cause excessive back pressure. Vent pipe outlets shall be so located that flammable vapors will not enter building openings, or be trapped under eaves or other obstructions. If the vent pipe is less than 10 feet (3.04 m) in length, or greater than 2 inches (5.08 cm) in nominal inside diameter, the outlet shall be provided with a vacuum and pressure relief device or there shall be an approved flame arrester located in the vent line at the outlet or within the approved distance from the outlet.

(B) * * *

(C) Location and arrangement of vents for Category 3 flammable liquids with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids. Vent pipes from tanks storing Category 3 with a flashpoint at or above 100 °F (37.8 °C) or Category 4 flammable liquids shall terminate outside of the building and higher than the fill pipe opening. Vent outlets shall be above normal snow level. They may be fitted with return bends, coarse screens or other devices to minimize ingress of foreign material.

* * * * *

(v) * * *

(D) For Category 2 flammable liquids or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), other than crude oils, gasolines, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity by terminating within 6 inches (15.24 cm) of the bottom of the tank.

* * * * *

(4) * * *

(iv) * * *

(E) For Category 2 flammable liquids or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), other than crude oils, gasolines, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity by terminating within 6 inches (15.24 cm) of the bottom of the tank.

* * * * *

(k) * * *

(3) * * *

(i) * * *

BILLING CODE 4510–26–P

TABLE F-19 - ELECTRICAL EQUIPMENT HAZARDOUS AREAS - SERVICE STATIONS

Location	Class I Group D division	Extent of classified area
Underground tank:		
Fill opening	1	Any pit, box or space below grade level, any part of which is within the Division 1 or 2 classified area.
	2	Up to 18 inches (45.72 cm) above grade level within a horizontal radius of 10 feet (3.04 m) from a loose fill connection and within a horizontal radius of 5 feet (1.52 M) from a tight fill connection.
Vent - Discharging upward	1	Within 3 feet (0.912 m) of open end of vent, extending in all directions.
	2	Area between 3 feet (0.912 m) and 5 feet (1.52 m) of open end of vent, extending in all directions.
Dispenser:		
Pits	1	Any pit, box or space below grade level, any part of which is within the Division 1 or 2 classified area.
Dispenser enclosure	1	The area 4 feet (1.216 m) vertically above base within the enclosure and 18 inches (45.72 cm) horizontally in all directions.
Outdoor	2	Up to 18 inches (45.72 cm) above grade level within 20 feet (6.08 m) horizontally of any edge of enclosure.
Indoor:		
With mechanical ventilation.	2	Up to 18 inches (45.72 cm) above grade level within 20 feet (6.08 m) horizontally of any edge of enclosure.
With gravity ventilation		Up to 18 inches (45.72 cm) above grade or floor level within 25 feet (7.6 m) horizontally of any edge of enclosure.
Remote pump - Outdoor	1	Any pit, box or space below grade level if any part is within a horizontal distance of 10 feet (3.04 m) from any edge of pump.
	2	Within 3 feet (0.912 m) of

		any edge of pump, extending in all directions. Also up to 18 inches (45.72 cm) above grade level within 10 feet (3.04 m) horizontally from any edge of pump.
Remote pump - Indoor.....	1	Entire area within any pit.
	2	Within 5 feet (1.52 m) of any edge of pump, extending in all directions. Also up to 3 feet (3.04 m) above floor or grade level within 25 feet (6.08 m) horizontally from any edge of pump.
Lubrication or service room.	1	Entire area within any pit.
	2	Area up to 18 inches (45.72 cm) above floor or grade level within entire lubrication room.
Dispenser for Category 1, 2 flammable liquids or 3 flammable liquids with a flashpoint below 100 ° F (37.8 °C)	2	Within 3 feet (0.912 m) of any fill or dispensing point, extending in all directions.
Special enclosure inside building per 1910.106(f)(1)(ii).		
Sales, storage and rest rooms.....	(1)	If there is any opening to these rooms within the extent of a Division 1 area, the entire room shall be classified as Division 1.

Footnote(1) Ordinary.

BILLING CODE 4510–26–C

* * * * *

(iv) Piping handling Category 1 or 2 flammable liquids, or Category 3 flammable liquids with a flashpoint below 100 °F (37.8 °C), shall be grounded to control stray currents.

* * * * *

43. Amend § 1926.155 as follows:

A. Remove and reserve paragraph (c);

B. Revise paragraphs (h) and (i)(1) and (2).

The revisions read as follows:

§ 1926.155 Definitions applicable to this subpart.

* * * * *

(h) *Flammable liquid* means any liquid having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 °F and having a flashpoint at or below 199.4 °F (93 °C). Flammable liquids are divided into four categories as follows:

Category 1 shall include liquids having flashpoints below 73.4 °F (23 °C) and having a boiling point at or below 95 °F (35 °C).

Category 2 shall include liquids having flashpoints below 73.4 °F (23 °C) and having a boiling point above 95 °F (35 °C).

Category 3 shall include liquids having flashpoints at or above 73.4 °F (23 °C) and at or below 140 °F (60 °C).

Category 4 shall include liquids having flashpoints above 140 °F (60 °C) and at or below 199.4 °F (93 °C).

(i) * * *

(1) The flashpoint of liquids having a viscosity less than 45 Saybolt Universal Second(s) at 100 °F (37.8 °C) and a flashpoint below 175 °F (79.4 °C) shall be determined in accordance with the Standard Method of Test for Flash Point by the Tag Closed Tester, ASTM D–56–69 or an equivalent method as defined by 1910.1200 appendix B.

(2) The flashpoints of liquids having a viscosity of 45 Saybolt Universal Second(s) or more at 175 °F (79.4 °C) or higher shall be determined in accordance with the Standard Method of Test for Flash Point by the Pensky Martens Closed Tester, ASTM D–93–69 or an equivalent method as defined by 1910.1200 appendix B.

* * * * *

Subpart Z—[Amended]

44. Revise the authority citation for subpart Z to read as follows:

Authority: Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); and Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007

(72 FR 31159), as applicable; and 29 CFR part 1911.

Sections 1926.1101 and 1926.1127 also issued under 5 U.S.C. 553.

Section 1926.1102 of 29 CFR not issued under 29 U.S.C. 655 or 29 CFR part 1911; also issued under 5 U.S.C. 553.

45. Amend § 1926.1101 as follows:

A. Redesignate paragraph (k)(1) as (k)(1)(i) and add a new heading to paragraph (k)(1);

B. Add new paragraph (k)(1)(ii);

C. Amend paragraphs (k)(2)(i) and (k)(3)(i) by changing the reference in the last line from ''(k)(1)'' to ''(k)(1)(i);''

D. Revise paragraphs (k)(7)(ii)(A) and (B), and (k)(8)(ii) and (iii).

The additions and revisions read as follows:

§ 1926.1101 Asbestos.

* * * * *

(k) * * *

(1) *Hazard communication.*

* * * * *

(ii) The employer shall include asbestos in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of asbestos and safety data sheets, and is trained in accordance with the provisions of HCS and paragraphs (k)(9) and (10) of this section. The employer shall provide information on at least the following hazards: Cancer and lung effects

* * * * *

(7) * * *

(ii)(A) The warning signs required by paragraph (k)(7) of this section shall bear the following information.

DANGER

ASBESTOS

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS

AUTHORIZED PERSONNEL ONLY

(B) In addition, where the use of respirators and protective clothing is required in the regulated area under this section, the warning signs shall include the following:

WEAR RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING IN THIS AREA

* * * * *

(8) * * *

(ii) The employer shall ensure that such labels comply with paragraphs (k).

(iii) The employer shall ensure that labels of bags or containers of protective clothing and equipment, scrap, waste, and debris containing asbestos fibers bear the following information:

DANGER

CONTAINS ASBESTOS FIBERS

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS

DO NOT BREATH DUST

* * * * *

46. Amend § 1926.1126 to revise paragraphs (g)(2)(iv) and (j)(1) to read as follows:

§ 1926.1126 Chromium.

* * * * *

(g) * * *

(2) * * *

(iv) The employer shall ensure that bags or containers of contaminated protective clothing or equipment that are removed from change rooms for laundering, cleaning, maintenance, or disposal shall be labeled in accordance with the requirements of the Hazard Communication Standard, 29 CFR 1910.1200. The employer shall ensure that the labels state the following hazards: Cancer, eye irritation, and skin sensitization.

* * * * *

(j) * * *

(1) *Hazard communication.* The employer shall include chromium (VI) in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of chromium and safety data sheets, and is trained in accordance with the provisions of 29 CFR 1910.1200 and paragraph (j)(2) of this section. The employer shall provide information on at least the following hazards: Cancer; skin sensitization; and eye irritation.

* * * * *

47. Amend § 1926.1127 to revise paragraphs (i)(2)(iv), (k)(7), and (m)(1), (m)(2)(ii), and (m)(3)(i) and (ii).

The revisions read as follows:

§ 1926.1127 Cadmium.

* * * * *

(i) * * *

(2) * * *

(iv) The employer shall ensure that containers of contaminated personal protective clothing and equipment that are to be taken out of the change rooms or the workplace for laundering, cleaning, maintenance or disposal shall bear labels in accordance with paragraph (m) of this section. As a minimum, labels on containers of contaminated protective clothing and equipment must state MAY CAUSE CANCER, CAUSES DAMAGE TO LUNGS AND KIDNEYS. AVOID CREATING DUST.

* * * * *

(k) * * *

(7) Waste, scrap, debris, bags, and containers, personal protective equipment and clothing contaminated with cadmium and consigned for disposal shall be collected and disposed of in sealed impermeable bags or other closed, impermeable containers. These bags and containers shall be labeled in accordance with paragraph (i)(2)(iv) of this section.

* * * * *

(m) * * *

(1) *Hazard communication.* The employer shall include cadmium in the program established to comply with the Hazard Communication Standard (HCS) (29 CFR 1910.1200). The employer shall ensure that each employee has access to labels on containers of cadmium and safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (m)(4) of this section. The employer shall provide information on at least the following hazards: Cancer; lung effects; kidney effects; and acute toxicity effects

(2) * * *

(ii) Warning signs required by paragraph (m)(2)(i) of this section shall bear the following information:

DANGER

CADMIUM

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS AND KIDNEYS

WEAR RESPIRATORY PROTECTION IN THIS AREA

AUTHORIZED PERSONNEL ONLY

(iii) * * *

(3) * * *

(i) Shipping and storage containers containing cadmium and cadmium compounds shall bear appropriate warning labels, as specified in paragraph (m)(1) of this section.

(ii) The warning labels for waste, scrap, or debris shall include at least the following information:

DANGER

CONTAINS CADMIUM

MAY CAUSE CANCER

CAUSES DAMAGE TO LUNGS AND KIDNEYS

CAN CAUSE LUNG AND KIDNEY DISEASE

AVOID CREATING DUST

* * * * *

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Part III

Department of Housing and Urban Development

Final Fair Market Rents for Fiscal Year 2010 for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5328–N–02]

Final Fair Market Rents for Fiscal Year 2010 for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Final Fair Market Rents (FMRs) for Fiscal Year (FY) 2010.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 (USHA) requires the Secretary to publish FMRs periodically, but not less than annually, adjusted to be effective on October 1 of each year. The primary uses of FMRs are to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment (HAP) contracts in the Moderate Rehabilitation Single Room Occupancy program (Mod Rehab), and to serve as a rent ceiling in the HOME rental assistance program. Today's notice provides final FY 2010 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2010. The FY 2010 FMRs are based on 2000 Census data updated with more current survey data. For FY 2010, FY 2009 FMRs are updated using 2007 American Community Survey (ACS) data, and more recent Consumer Price Index (CPI) rent and utility indexes. HUD continues to use ACS data in different ways according to how many two-bedroom standard-quality and recent-mover sample cases are available in the FMR area or its Core-Based Statistical Area (CBSA). Revised 2007 FMRs based on Census and ACS data have been updated with CPI data through the end of 2008 and then trended to April 2010, the mid-point of FY 2010.

DATES: *Effective Date:* The FMRs published in this notice are effective on October 1, 2009.

FOR FURTHER INFORMATION CONTACT: For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at (800) 245–2691 or access the information at the following link on the HUD Web site: *http://www.huduser.org/datasets/fmr.html.* FMRs are listed at the 40th or 50th percentile in Schedule B. An asterisk before the FMR area name identifies a 50th percentile area. Any questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. Questions on how to conduct FMR surveys or further methodological explanations may be addressed to Marie L. Lihn or Lynn A. Rodgers, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone number (202) 708–0590. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line and TTY numbers, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the USHA (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different areas. In the Housing Choice Voucher program, the FMR is the basis for determining the ''payment standard amount'' used to calculate the maximum monthly subsidy for an assisted family (see 24 CFR 982.503). In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities. In addition, all rents subsidized under the Housing Choice Voucher program must meet reasonable rent standards. The interim rule published on October 2, 2000 (65 FR 58870), established 50th percentile FMRs for certain areas.

Electronic Data Availability: This **Federal Register** notice is available electronically from the U.S. Government Printing Office Web site, *http://www.gpoaccess.gov/fr/index.html.* Complete documentation of the methodology and data used to compute each area's Final FY 2010 FMRs is available at *http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr10.*

II. Procedures for the Development of FMRs

Section 8(c) of the USHA requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. Section 8(c) states in part, as follows:

> Proposed fair market rentals for an area shall be published in the **Federal Register** with reasonable time for public comment and shall become effective upon the date of publication in final form in the **Federal Register**. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes—based on the most recent available data trended so the rentals will be current for the year to which they apply—of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in this section.

The Department's regulations at 24 CFR part 888 provide that HUD will develop proposed FMRs, publish them for public comment, provide a public comment period of at least 30 days, analyze the comments, and publish final FMRs (See 24 CFR 888.115).

In addition, HUD's regulations at 24 CFR 888.113 set out procedures for HUD to assess whether areas are eligible for FMRs at the 50th percentile. Areas that currently have 50th percentile FMRs are evaluated for progress in voucher tenant deconcentration after three years in the program. Continued eligibility is determined using HUD administrative data that show levels of voucher tenant concentration. The levels of voucher holder concentration must be above 25 percent and show a decrease in concentration since the last evaluation. At least 85 percent of the voucher units in the area must be used to make this determination. For FY 2009, there were 14 areas that were designated as 50th percentile areas. Ten current 50th percentile FMR areas were not evaluated this year because they have not completed three years of program participation. These 10 areas, listed below, will complete their three-year program period and be evaluated to determine if they remain 50th percentile FMR areas in the proposed FY 2012 FMR publication.

FY 2009 50TH-PERCENTILE FMR AREAS NOT SLATED FOR ELIGIBILITY EVALUATION AND CONTINUING WITH 50TH-PERCENTILE FMRS IN FY 2010

Albuquerque, NM MSA.
Bradenton-Sarasota-Venice, FL MSA.
Chicago-Naperville-Joliet, IL HMFA.
Denver-Aurora, CO MSA.
Hartford-West Hartford-East Hartford, CT HMFA.
Houston-Baytown-Sugar Land, TX HMFA.
Kansas City, MO-KS, HMFA.
Milwaukee-Waukesha-West Allis, WI MSA.
Richmond, VA HMFA.
Tacoma, WA HMFA.

The remaining four current 50th percentile FMR areas had been in the program for a three-year period and were reviewed to determine if deconcentration had occurred. A list of these four areas is shown below.

FY 2009 50TH-PERCENTILE FMR AREAS REVIEWED FOR ELIGIBILITY AS FY 2010 50TH-PERCENTILE FMR AREAS

Dallas, TX HMFA.
Fort Lauderdale, FL HMFA.
San Diego-Carlsbad-San Marcos, CA MSA.
West Palm Beach-Boca Raton, FL HMFA.

Two of the four current 50th percentile areas eligible for review fail to qualify for the 50th percentile FMR program for FY 2010. One of these areas, San Diego-Carlsbad-San Marcos, CA MSA, no longer qualifies for the 50th-percentile FMR program because the area no longer meets the voucher holder concentration standards set out in the 50th percentile FMR program, at 24 CFR 888.113. Based on current tenant data, less than 25 percent of the tenant-based rental program participants reside in the 5 percent of census tracts in the metropolitan area with the largest number of program participants. This area will be reviewed annually to see if its concentration changes to above 25 percent so it can be reinstated as a 50th percentile area. The San Diego-Carlsbad-San Marcos, CA MSA could re-qualify as 50th percentile FMR areas as early as the FY 2011 FMRs.

As noted in the publication of proposed FY 2010 FMRs, the Dallas, TX HMFA failed to deconcentrate over the three-year period. Under current regulations, the Dallas, TX HMFA is not eligible for participation in the 50th percentile FMR program until FY 2013. The Dallas, TX HMFA will be reviewed in time for the proposed FY 2013 FMRs to determine if they can meet 50th percentile FMR criteria.

Two of the four areas reviewed will continue to use 50th percentile FMRs for another three-year period. These two areas will not be re-evaluated until FY 2013.

FY 2009 50TH-PERCENTILE FMR AREAS EVALUATED AND CONTINUING WITH 50TH-PERCENTILE FMRS IN FY 2010

Fort Lauderdale, FL HMFA.
West Palm Beach-Boca Raton, FL HMFA.

For FY 2010, five areas that were not designated as 50th percentile FMRs in FY 2009 were evaluated to determine if they met all of the qualifications for designation this year. All five of these areas are 50th percentile areas effective October 1st for a three-year period beginning with the FY 2010 FMRs. These areas are listed in the table below.

AREAS REVIEWED FOR ELIGIBILITY AS FY 2010 50TH-PERCENTILE FMR AREAS

Baltimore-Towson, MD MSA.
Grand Rapids-Wyoming, MI HMFA.
New Haven-Meriden, CT HMFA.
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA.
Washington-Arlington-Alexandria, DC-VA-MD HMFA.

In total, 17 areas will have 50th percentile FMRs in FY 2010, including 10 areas that will be evaluated for FY 2012, two areas that passed review and will be re-evaluated for FY 2013, and five areas that did not have 50th percentile FMRs in FY 2009, and will also be evaluated for FY 2013. Included in these five newly-designated 50th percentile FMR areas is Washington, DC, which was not considered a 50th percentile FMR area in the proposed publication because the reporting rate for the area was less than 85 percent. Additional data was provided by the DC Housing Authority, the analysis was completed, and all 50th percentile criteria were met.

III. Proposed FY 2010 FMRs

On August 4, 2009 (74 FR 38716), HUD published proposed FY 2010 FMRs. As noted in the preamble to the proposed FMRs, the FMRs for FY 2010 reflect the use of both one-year and three-year 2007 ACS data to update June 2006 rent estimates for each area. In addition, the FY 2010 FMRs include all changes made to metropolitan area definitions made by the Office of Management and Budget (OMB), as of November 2008.

During the comment period, which ended September 2, 2009, HUD received 10 public comments on the proposed FY 2010 FMRs. None of the comments received included the data needed to support FMR changes. Several of these comments expressed that proposed FY 2010 FMRs are incorrect for their respective market areas. The comments received are discussed in more detail later in this notice.

IV. FMR Methodology

The FY 2010 FMRs are based on current OMB metropolitan area definitions that were first used in the FY 2006 FMRs. The changes OMB made to the Metropolitan Area Definitions in November 2008 are incorporated. This means that there are five Metropolitan Statistical Area (MSA) name changes that reorder, add, or delete a primary city name. Additionally, three micropolitan areas were re-defined as metropolitan areas: Cape Girardeau-Jackson, MO-IL MSA, Manhattan, KS MSA, Mankato-North Mankato, MN MSA. The area definitions based on 2000 Census data have the advantages of providing more relevant commuting interchange standards, and more current measures of housing market relationships than those based on 1990 Census data and used prior to the FY 2006 FMRs.

At HUD's request, the Census Bureau prepared a special publicly releasable census file that permits almost exact replication of HUD's 2000 Base Rent calculations, except for areas with few rental units. This data set is located on HUD's HUD USER Web site at *http://www.huduser.org/datasets/fmr/CensusRentData/.*

A. Data Sources—2000 Census and American Community Survey

As in all post-FY 2006 FMR publications, FY 2010 FMRs start with base rents generated using Census 2000 long form survey data. They are updated with American Community Survey (ACS) data and Bureau of Labor Statistics Consumer Price Index (CPI) data. FY 2010 FMRs are FY 2009 FMRs updated by replacing the CPI data used for FY 2009 FMRS with ACS 2007 survey data and updated CPI data. Specifically, the FY 2009 rent (as of date: April, 2009) is deflated to June 2006 by dividing it by 18 months of CPI data representing June 2006 through December 2007 inflation, and the usual 15 month trend factor. This June 2006 rent is the best and most recent rent estimate available using only ACS survey and eliminating all other update data. It is this rent that is updated with additional ACS data and new CPI data.

In order to preserve additional information gathered by HUD through random digit dialing (RDD) surveys, areas surveyed after June 2007 are updated separately, the details of which can be found at the Web site listed above.

B. Updates from 2006 to 2007—2007 ACS

ACS survey data continues to be applied to areas based on the type of area (CBSA, metropolitan sub-area, or non-metropolitan county), the amount of survey data available, and the reliability of the survey estimates. Both one- and three-year ACS 2007 data are used to update June 2006 rents. All areas are updated with the change from 2006 to 2007 in State or metropolitan one-year standard quality median rents. In a methodological update from previous years' estimates intended to minimize fluctuations in rents due to survey error, these rent changes are

tested for statistical significance [1] before being applied to 2006 rents. Any state or metropolitan level change that is not statistically significant is not applied, that is the updated 2007 rent is the same as the 2006 rent. Metropolitan level rent changes are used for CBSA areas and sub-areas that have more than 200 standard quality cases in 2006 and 2007. All other areas are updated with state level rent changes. For sub-areas, State and CBSA change factors continue to be selected based on which factor brings the sub-area rent closer to the CBSA-wide rent. Sub-areas which have 200 or more local standard quality survey observations are updated with their local area update factor.

$$Z = \frac{EST_1 - EST_2}{\sqrt{\left(SE_1^2 + SE_2^2\right)}}$$

After all areas have been updated with a standard quality median rent change, local areas with estimates that reflect more than 200 one-year recent mover cases are evaluated further. If the updated rent is outside the confidence interval of the ACS recent mover estimate, the updated rent is replaced with the ACS recent mover rent estimate. In areas without 200 or more one-year ACS recent mover observations, but with 200 or more three-year ACS recent mover observations, the three year estimate [2] is used if it is statistically different from the updated 2007 rent based on the standard quality median rent change. This process creates a June 2007 rent.

C. Updates From 2007 to 2008

ACS 2007 data updates the June 2006 rents used in the FY 2009 FMRs forward by 12 months to June 2007. Six months of 2007 and 12 months of 2008 CPI rent and utilities price index data are used to update the June 2007 rents to the end of 2008. Local CPI data are used for FMR areas with at least 75 percent of their population within Class A metropolitan areas covered by local CPI data. Census region CPI data are used for FMR areas in Class B and C size metropolitan areas and nonmetropolitan areas without local CPI update factors.

D. Updates From 2008 to 2010

The national 1990 to 2000 average annual rent increase trend of 1.03 is applied to end-of-2008 rents for 15 months, to derive the proposed FY 2010 FMRs.

The area-specific data and computations used to calculate proposed FY 2010 FMRs and FMR area definitions can be found at *http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr10.*

E. Large Bedroom Rents

FMR estimates are calculated for two-bedroom units. This generally is the most common size of rental units, and therefore the most reliable to survey and analyze. After each decennial census, rent relationships between two-bedroom units and other unit sizes are calculated and used to set FMRs for other units. This is done because it is much easier to update two-bedroom estimates and to use pre-established cost relationships with other bedroom sizes than it is to develop independent FMR estimates for each bedroom size. This was last done using 2000 Census data. A publicly releasable version of the data file used that permits derivations of rent ratios is available at *http://www.huduser.org/datasets/fmr/CensusRentData/index.html.* Rent ratio derivations are also shown in the FMR documentation system at *http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr10.*

The rents for three-bedroom and larger units continue to reflect HUD's policy to set higher rents for these units than would result from using normal market rents. This adjustment is intended to increase the likelihood that the largest families, who have the most difficulty in leasing units, will be successful in finding eligible program units. The adjustment adds bonuses of 8.7 percent to the unadjusted three-bedroom FMR estimates and adds 7.7 percent to the unadjusted four-bedroom FMR estimates. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room occupancy units are 0.75 times the zero-bedroom (efficiency) FMR.

A further adjustment was made using 2000 Census data in establishing rent ratios for areas with local bedroom-size intervals above or below what are considered to be reasonable ranges or where sample sizes are inadequate to accurately measure bedroom rent differentials. HUD's experience has shown that highly unusual bedroom ratios typically reflect inadequate sample sizes or peculiar local circumstances that HUD would not want to utilize in setting FMRs (*e.g.,* luxury efficiency apartments that rent for more than typical one-bedroom units). Bedroom interval ranges were established based on an analysis of the range of such intervals for all areas with large enough samples to permit accurate bedroom ratio determinations. The ranges used were: Efficiency units are constrained to fall between 0.65 and 0.83 of the two-bedroom FMR; one-bedroom units must be between 0.76 and 0.90 of the two-bedroom unit; three-bedroom units must be between 1.10 and 1.34 of the two-bedroom unit; and four-bedroom units must be between 1.14 and 1.63 of the two-bedroom unit. Bedroom rents for a given FMR area were then adjusted if the differentials between bedroom-size FMRs were inconsistent with normally observed patterns (*i.e.,* efficiency rents were not allowed to be higher than one-bedroom rents and four-bedroom rents were not allowed to be lower than three-bedroom rents).

For low-population, nonmetropolitan counties with small census recent-mover rent samples, census-defined county group data were used in determining rents for each bedroom size. This adjustment was made to protect against unrealistically high or low FMRs due to insufficient sample sizes. The areas covered by this estimation method had less than the HUD standard of 200 two-bedroom census-tabulated observations.

V. Public Comments

A total of 10 public comments were received on the proposed FY 2010 FMRs. Two of the comments filed were concerned with HUD's presentation of proposed FMR data. These comments requested that HUD publish both the current proposed and most recent final FMRs together in a spreadsheet. The concept of comparing proposed rents to current effective rents is relevant so HUD has added this comparison to its on-line documentation system to provide interested users with a comparison of current year proposed rents to final rents from the previous year. This functionality will only be available in the proposed FMR documentation systems.

Several commenters expressed concern with either increases or decreases in their FMRs. HUD will shortly be issuing guidance on cost-related issues in the housing voucher

[1] The change is considered statistically significant if $Z > 1.645$ where (see equation above) and EST_1 = ACS 2007. Estimate, EST_2 = ACS 2006 Estimate, SE_1 = Standard Error of Estimate 1 and SE_2 = Standard Error of Estimate 2.

[2] The recent mover estimate from the three year data includes all those who moved in the most recent 24 month period. That means that no 2005 survey data are included in this three-year recent mover classification and the likelihood of having a valid (with 200 or more cases) three-year recent mover rent is lower for these estimates.

program including the setting of payment standards. However, as a reminder, whether there is a decrease or an increase in the FY 2010 FMR, a PHA is not required to decrease or increase the dollar amount of their payment standards unless the FMR results in the payment standard being outside the basic range of 90-to-110 percent of the FMR.

A comment from the Housing Authority of the City of Reno stated that proposed FY 2010 FMRs are too high. The Reno comment claims that no increase in its FMR is needed and asks HUD to hold its FMRs at the FY 2009 level. Reno includes an analysis that states that the three-percent annual trend factor is the cause of the increase in Reno's FMR from FY 2009 to FY 2010, and requests that HUD revise its trend factor downward. However, the actual source of the increase comes from the nearly 6-percent increase in ACS measured 2 bedroom rents between 2006 and 2007. No data were submitted by the Housing Authority to support their claim that FMRs are too high in the area, but because the increase in the FMR for Reno is based on an update factor using standard quality, not recent mover, ACS data between 2006 ACS and 2007 ACS HUD will conduct a RDD survey in the area to see if more current rents support a lower FMR.

A real estate management firm serving customers in New Bedford, MA commented that FMRs are too low for their professionally managed and maintained communities; therefore, their communities will not be able to accommodate voucher tenants. The comment specifically requested that HUD not conduct a RDD survey. Absent sufficient data reflecting rent levels that exist in the entire FMR area, HUD has no mechanism for adjusting FMRs in this area.

The Oklahoma City Housing Authority commented that the proposed 3.5 percent decrease in FMRs for the Oklahoma City, OK MSA is not justified. They cite a 3-percent increase in aggregate rental rates per square foot between 2007 and 2008 as quoted from a full-service commercial real estate firm as the basis for the objection. The decrease in the proposed FY 2010 FMR for Oklahoma City, OK is driven by a 1-year 2007 ACS recent-mover survey result that measured a statistically significant drop in two-bedroom unit rents between 2006 and 2007. This 2007 ACS result qualifies as the new basis for the Oklahoma City FMR. Activity in the rental market subsequent to 2007 is measured by 18 months of CPI rent and utility indexes and the traditional trend factor. These indexes lend credence to the quoted increases in rental rates. From mid-2007 to the end of 2007 this CPI measured increase was approximately 2 percent and from the end of 2007 to the end of 2008, this increase was approximately 5 percent. However, because the 2007 ACS survey result indicates that the base rent in Oklahoma City was too high in 2007, this downward adjustment is necessary.

The Lafayette Housing Authority disagrees with HUD's decision to increase FMRs for the Lafayette, IN HUD Metro FMR Area ''when funding for the HCV program continues to lag so far behind that we must continue to decrease the number of households we can assist.'' The 1.4 percent increase in the FMR for Lafayette is based on measured increases in rent and utility indexes in the CPI and is the most current data available for the area.

The Minot Housing Authority serving Ward County, North Dakota filed a comment that FMRs are too low in the area. The Minot area has experienced an extremely low vacancy rate due to increased energy exploration and production in the area. Additionally, a substantial expansion of personnel at the Minot Air Force Base will place additional strain on the housing market of the area. Minot is currently using a success rate payment standard to increase its FY 2009 FMRs, but claims that increased payment standards are still needed. HUD will survey this area and will publish a revision to the FMRs once the study is completed and if statistically different rent results are obtained.

The Department of Housing for the Commonwealth of Puerto Rico submitted a comment stating that FMRs throughout the entire Commonwealth are too low. They base this assertion on the claim that CPI measures of rent and utility increases measured for the South Census region do not accurately reflect the price changes experienced in Puerto Rico. Between 2000 and 2006, the Department of Labor and Human Resources of the Government of Puerto Rico created a CPI measure for Puerto Rico in consultation with officials from the U.S. Department of Commerce's Bureau of Labor Statistics. HUD was not aware of this activity so previous FMRs have not included this Puerto Rico specific CPI data. HUD will incorporate consideration of this new CPI index into its FMR Process Review.

The National Association of Housing and Redevelopment Officials (NAHRO) submitted a general comment not specific to any FMR area. In their comment, NAHRO recommends multiple topics for future improvement of both the FMR and the Income Limit methodology. Briefly, these topics include: (1) HUD's implementation of the OMB area definitions in FY 2006; (2) use of tenant data when developing Annual Adjustment Factors; (3) continuation of HUD's Hold Harmless policy for Income Limits (Comments referencing HUD's Hold Harmless policy should be referred to Docket No. FR–5323–N–01 published on September 14th); (4) enhancements to the methodology for identifying sub-standard housing units in the ACS; (5) the relationship between quality of the rental housing stock and FMRs, (6) determination of 50th percentile FMR areas; (7) improvements in HUD's RDD methodology; (8) the impact of HUD's definition of ''recent movers'' and ''stayers'' on FMRs; and (9) exception payment standards. In the preamble to the proposed FY 2010 FMR notice, HUD solicited topics for inclusion in future FMR notices regarding reforms and changes to the FMR methodology. HUD will incorporate this list of topics into future discussions dealing with FMR reform.

A comment filed by the National Association of Home Builders (NAHB) made four specific requests: (1) Conduct RDD surveys in the areas with a decrease of more than 5 percent; (2) incorporate language into proposed and final FMR notices concerning the adjustments made by HUD to control for the presence of inadequate and subsidized units; (3) explain the way that a particular area becomes eligible for 50th percentile FMRs; and (4) the loss of the 50th percentile FMR designation in the Dallas, TX HUD Metro FMR Area.

FY 2010 proposed FMRs include two areas that experience more than a 5 percent decline in FMRs. One is San Diego, CA, whose decline is a result of the loss of the 50th percentile, and the other is Ann Arbor, MI. HUD is required by law to use the most recent, reliable data available in estimating FMRs. Limiting either increases or decreases would be counter to the current law. FMRs for both of these areas are based on local ACS survey results; conducting an RDD would use scarce resources to produce less reliable data than that available from the ACS. In addition, no comments were filed by any party within either of the two areas.

NAHB has requested additional language be added to FMR publications concerning adjustments made to source data to account for sub-standard and subsidized units. In response to a similar comment from NAHB last year HUD published a document outlining the procedure for these adjustments. A link to this document is available within

the FY 2010 on-line documentation wherever the adjustments are made to the underlying data distributions and not just in determining the 2000 Census Base rent as reported by NAHB. HUD believes that the on-line documentation system is the best venue for discussing methodological details and believes that interested parties will be able to find the explanation at the appropriate location within the on-line system.

HUD continues to provide specific details regarding the 50th percentile status for all areas meeting the eligibility requirements for inclusion in this program. In response to the NAHB request that HUD include information regarding ''success rate payment standards'' HUD reiterates here that all of the rules and conditions for becoming eligible for and for maintaining eligibility of 50th percentile status are given in 24 CFR 888.113 and 24 CFR 982.503, including the rules applying to the success rate payment standard.

Finally, with regard to the loss of 50th percentile standing for the Dallas, TX HUD Metro FMR area, NAHB recommends that HUD ''look further into the circumstances of areas that stand to lose the 50th percentile designation because of failure to materially deconcentrate in three years.'' Furthermore, NAHB suggests that there may be instances where an additional year is warranted. Current program regulations do not allow for an additional year of eligibility for areas that do not deconcentrate over the three-year period.

VI. Manufactured Home Space Surveys

The FMR used to establish payment standard amounts for the rental of manufactured home spaces in the Housing Choice Voucher program is 40 percent of the FMR for a two-bedroom unit. HUD will consider modification of the manufactured home space FMRs where public comments present statistically valid survey data showing the 40th percentile manufactured home space rent (including the cost of utilities) for the entire FMR area. For FY 2010, HUD received no comments or data concerning manufactured home space rents.

All approved exceptions to these rents that were in effect in FY 2009 were updated to FY 2010 using the same data used to estimate the Housing Choice Voucher program FMRs if the respective FMR area's definition remained the same. If the result of this computation was higher than 40 percent of the re-benchmarked two-bedroom rent, the exception remains and is listed in Schedule D. The FMR area definitions used for the rental of manufactured home spaces are the same as the area definitions used for the other FMRs. Areas with definitional changes that previously had exceptions to their manufactured housing space rental FMRs are requested to submit new surveys to justify higher-than-standard space rental FMRs if they believe higher space rental allowances are needed.

VII. HUD Rental Housing Survey Guides

For the supporting data, HUD recommends the use of professionally conducted RDD telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of approximately $35,000. Areas with 2,000 or more program units usually meet this cost criterion, and areas with fewer units may meet it if actual rents for two-bedroom units are significantly different from the FMRs proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of $5,000 or less.

PHAs in nonmetropolitan areas may, in certain circumstances, conduct surveys of groups of counties. HUD must approve all county-grouped surveys in advance. PHAs are cautioned that the resulting FMRs will not be identical for the counties surveyed. Each individual FMR area will have a separate FMR based on the relationship of rents in that area to the combined rents in the cluster of FMR areas. In addition, PHAs are advised that counties where FMRs are based on the combined rents in the cluster of FMR areas will not have their FMRs revised unless the grouped survey results show a revised FMR above the combined rent level.

PHAs that plan to use the RDD survey technique should obtain a copy of the appropriate survey guide. Larger PHAs should request HUD's survey guide entitled ''Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller PHAs should obtain the guide entitled ''Rental Housing Surveys: A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments.'' These guides, in Microsoft Word format, are available from HUD USER at HUD's Web site at the following address: *http://www.huduser.org/datasets/fmr.html.*

Other survey methodologies are acceptable in providing data to support comments, if the survey methodology can provide statistically reliable, unbiased estimates of the gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn to be statistically representative of the entire rental housing stock of the FMR area. Surveys must include units at all rent levels and be representative by structure type (including single-family, duplex, and other small rental properties), age of housing unit, and geographic location. The decennial census should be used as a means of verifying if a sample is representative of the FMR area's rental housing stock.

Most surveys of FMR areas cover only one- and two-bedroom units. If the survey is statistically acceptable, HUD will estimate FMRs for other bedroom sizes using ratios based on the decennial census. A PHA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations, HUD may find it appropriate to relax normal sample size requirements.

HUD will consider increasing manufactured home space FMRs where public comment demonstrates that 40 percent of the two-bedroom FMR is not adequate. In order to be accepted as a basis for revising the manufactured home space FMRs, comments must include a pad rental survey of the mobile home parks in the area, identify the utilities included in each park's rental fee, and provide a copy of the applicable public housing authority's utility schedule.

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR Part 888, are amended as follows:

Dated: September 23, 2009.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

Fair Market Rents for the Housing Choice Voucher Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. *Metropolitan Areas*—FMRs are market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental-housing units are in direct competition. The FY2010 FMRs reflect a change in metropolitan area definitions. HUD is using the

metropolitan Core Based Statistical Areas (CBSA), which are made up of one or more counties, as defined by the OMB, with some modifications. HUD is generally assigning separate FMRs to the component counties of CBSA Micropolitan Areas.

b. *Modifications to OMB Definitions*—Following OMB guidance, the estimation procedure for the FY2010 FMRs incorporates the current OMB definitions of metropolitan areas based on the CBSA standards as implemented with 2000 Census data, but makes adjustments to the definitions to separate subparts of these areas where FMRs or median incomes would otherwise change significantly if the new area definitions were used without modification. In CBSAs where sub-areas are established, it is HUD's view that the geographic extent of the housing markets are not yet the same as the geographic extent of the CBSAs, but may become so in the future as the social and economic integration of the CBSA component areas increases. Modifications to metropolitan CBSA definitions are made according to a formula as described below.

Metropolitan area CBSAs (referred to as Metropolitan Statistical Areas or MSAs) may be modified to allow for sub-area FMRs within MSAs based on the boundaries of old FMR areas (OFAs) within the boundaries of new MSAs. (OFAs are the FMR areas defined for the FY2005 FMRs. Collectively, they include 1999 definition MSAs/PMSAs, metropolitan counties deleted from 1999 definition MSAs/PMSAs by HUD for FMR purposes, and counties and county parts outside of 1999 definition MSAs/PMSAs referred to as nonmetropolitan counties.) Sub-areas of MSAs are assigned their own FMRs when the sub-area 2000 Census Base Rent differs by at least 5 percent from the MSA 2000 Census Base Rent (*i.e.,* by at most 95 percent or at least 105 percent), or when the 2000 Census Median Family Income for the sub-area differs by at least 5 percent from the MSA 2000 Census Median Family Income. MSA sub-areas, and the remaining portions of MSAs after sub-areas have been determined, are referred to as HUD Metro FMR Areas (HMFAs) to distinguish these areas from OMB's official definition of MSAs.

The specific counties and New England towns and cities within each state in MSAs and HMFAs are listed in Schedule B.

2. Bedroom Size Adjustments

Schedule B shows the FMRs for zero-bedroom through four-bedroom units. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the zero-bedroom FMR.

3. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each state. The exception rents for manufactured home spaces FMRs are listed alphabetically in Schedule D.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one state can be identified by consulting the listings for each applicable state.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

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SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 1

ALABAMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston-Oxford, AL MSA	426	471	585	773	909	Calhoun
Auburn-Opelika, AL MSA	421	502	647	851	874	Lee
Birmingham-Hoover, AL HMFA	593	659	735	933	960	Bibb, Blount, Jefferson, St. Clair, Shelby
Chilton County, AL HMFA	398	550	612	769	881	Chilton
Columbus, GA-AL MSA	550	579	663	882	1044	Russell
Decatur, AL MSA	467	524	603	789	818	Lawrence, Morgan
Dothan, AL HMFA	415	488	553	707	808	Geneva, Houston
Florence-Muscle Shoals, AL MSA	490	493	598	762	945	Colbert, Lauderdale
Gadsden, AL MSA	387	489	594	761	786	Etowah
Henry County, AL HMFA	350	482	536	641	660	Henry
Huntsville, AL MSA	517	563	665	910	999	Limestone, Madison
Mobile, AL MSA	580	620	700	917	1082	Mobile
Montgomery, AL MSA	552	653	735	975	1287	Autauga, Elmore, Lowndes, Montgomery
Tuscaloosa, AL MSA	483	558	723	929	958	Greene, Hale, Tuscaloosa
Walker County, AL HMFA	496	497	596	744	813	Walker

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baldwin	534	643	764	1013	1160	Barbour	448	449	539	667	687
Bullock	397	449	550	659	710	Butler	397	449	550	659	710
Chambers	445	483	536	727	750	Cherokee	464	465	560	667	688
Choctaw	444	469	536	680	908	Clarke	348	481	536	642	942
Clay	446	448	536	662	825	Cleburne	450	452	542	664	827
Coffee	427	487	552	755	969	Conecuh	444	469	536	680	908
Coosa	435	481	536	726	815	Covington	446	447	536	731	754
Crenshaw	397	449	550	659	710	Cullman	464	478	560	753	774
Dale	414	478	536	774	939	Dallas	355	493	547	690	740
DeKalb	400	425	536	713	733	Escambia	445	451	536	668	822
Fayette	352	407	536	781	943	Franklin	349	452	536	723	941
Jackson	445	482	536	683	941	Lamar	359	445	536	716	940
Macon	398	428	552	736	761	Marengo	445	473	536	694	713
Marion	348	407	536	681	942	Marshall	473	507	572	772	851
Monroe	445	483	536	742	820	Perry	445	473	536	694	713
Pickens	359	445	536	716	940	Pike	427	460	536	688	710
Randolph	446	448	536	662	825	Sumter	359	458	536	716	940
Talladega	454	455	545	735	961	Tallapoosa	429	439	538	759	881

Washington	444	469	536	680	908	Wilcox	444	469	536	680	908
Winston	358	407	536	642	660						

ALASKA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK HMFA	723	822	1031	1485	1808	Anchorage
Fairbanks, AK MSA	653	785	1004	1454	1535	Fairbanks North Star
Matanuska-Susitna Borough, AK HMFA	660	769	981	1395	1694	Matanuska-Susitna

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 2

ALASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutians East	815	926	1174	1451	1496	Aleutians West	815	926	1174	1451	1496
Bethel	933	1168	1418	1696	2490	Bristol Bay	815	926	1174	1451	1496
Denali	686	847	1057	1484	1671	Dillingham	815	926	1174	1451	1496
Haines	686	847	1057	1484	1671	Juneau	831	1018	1281	1731	2157
Kenai Peninsula	615	703	855	1171	1501	Ketchikan Gateway	733	935	1124	1638	1974
Kodiak Island	785	920	1210	1739	1840	Lake and Peninsula	815	926	1174	1451	1496
Nome	817	1050	1205	1454	1498	North Slope	841	983	1292	1545	1590
Northwest Arctic	815	926	1174	1451	1496	Prince of Wales-Outer Ketchikan	815	926	1174	1451	1496
Sitka	780	899	1073	1563	1883	Skagway-Hoonah-Angoon	815	926	1174	1451	1496
Southeast Fairbanks	686	847	1057	1484	1671	Valdez-Cordova	686	847	1057	1484	1671
Wade Hampton	815	926	1174	1451	1496	Wrangell-Petersburg	815	926	1174	1451	1496
Yakutat	815	926	1174	1451	1496	Yukon-Koyukuk	815	926	1174	1451	1496

ARIZONA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ MSA	820	975	1102	1417	1787	Coconino
Lake Havasu City-Kingman, AZ MSA	615	676	788	1090	1216	Mohave
Phoenix-Mesa-Scottsdale, AZ MSA	654	762	919	1338	1567	Maricopa, Pinal
Prescott, AZ MSA	683	706	891	1298	1337	Yavapai
Tucson, AZ MSA	540	635	815	1174	1240	Pima
Yuma, AZ MSA	574	678	810	1149	1408	Yuma

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Apache	433	530	627	870	1102	Cochise	508	589	739	1021	1254
Gila	554	649	854	1173	1208	Graham	576	621	695	960	1105
Greenlee	526	585	734	1009	1141	La Paz	591	592	710	1005	1034
Navajo	516	552	728	981	1162	Santa Cruz	607	608	770	1123	1156

ARKANSAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR HMFA	497	524	655	954	981	Benton, Madison, Washington
Fort Smith, AR-OK HMFA	394	447	557	742	808	Crawford, Sebastian
Franklin County, AR HMFA	335	438	515	653	797	Franklin
Grant County, AR HMFA	433	446	545	789	813	Grant
Hot Springs, AR MSA	402	499	621	775	799	Garland

Jonesboro, AR HMFA	469	489	564	794	818	Craighead
Little Rock-North Little Rock-Conway, AR HMFA	540	614	684	916	945	Faulkner, Lonoke, Perry, Pulaski, Saline
Memphis, TN-MS-AR HMFA	648	705	783	1043	1076	Crittenden
Pine Bluff, AR MSA	398	472	592	710	842	Cleveland, Jefferson, Lincoln
Poinsett County, AR HMFA	335	433	515	685	820	Poinsett
Texarkana, TX-Texarkana, AR MSA	501	506	623	760	827	Miller

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 3

ARKANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas	393	414	515	748	769	Ashley	400	414	544	652	717
Baxter	394	458	554	745	939	Boone	435	436	524	671	754
Bradley	383	389	515	639	677	Calhoun	333	462	515	656	835
Carroll	451	452	543	685	954	Chicot	383	389	515	639	677
Clark	410	416	535	690	710	Clay	415	417	515	660	702
Cleburne	467	468	561	769	987	Columbia	337	433	519	637	729
Conway	428	441	515	709	771	Cross	430	431	518	755	825
Dallas	333	462	515	656	835	Desha	383	389	515	655	677
Drew	368	473	568	714	996	Fulton	410	411	515	677	755
Greene	334	465	515	753	776	Hempstead	403	451	528	633	727
Hot Spring	429	430	515	675	696	Howard	393	457	515	663	685
Independence	358	426	515	666	723	Izard	410	411	515	677	755
Jackson	347	455	515	727	749	Johnson	334	458	515	686	820
Lafayette	406	465	534	639	764	Lawrence	336	411	515	633	837
Lee	366	414	515	686	798	Little River	406	465	534	651	764
Logan	335	433	515	736	824	Marion	427	429	515	678	746
Mississippi	362	404	529	698	842	Monroe	428	430	515	645	666
Montgomery	399	464	584	734	756	Nevada	406	465	534	639	764
Newton	429	430	517	667	750	Ouachita	333	464	515	709	831
Phillips	427	431	515	671	692	Pike	406	465	534	639	764
Polk	428	464	515	670	814	Pope	387	415	537	757	778
Prairie	428	430	515	645	666	Randolph	335	419	515	616	903
St. Francis	436	452	528	745	925	Scott	428	430	515	712	903
Searcy	429	430	517	667	750	Sevier	430	444	515	712	825
Sharp	428	430	515	656	678	Stone	410	411	515	677	755
Union	440	463	529	686	890	Van Buren	335	391	515	638	823
White	442	443	532	722	743	Woodruff	428	430	515	645	666
Yell	425	449	515	706	728						

CALIFORNIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	622	670	799	1155	1384	Kern
Chico, CA MSA	594	706	852	1201	1434	Butte
El Centro, CA MSA	606	685	845	1163	1481	Imperial
Fresno, CA MSA	646	711	840	1222	1316	Fresno

Hanford-Corcoran, CA MSA	639	680	790	1152	1388	Kings
Los Angeles-Long Beach, CA HMFA	943	1137	1420	1907	2295	Los Angeles
Madera-Chowchilla, CA MSA	642	674	860	1250	1289	Madera
Merced, CA MSA	577	658	799	1139	1330	Merced
Modesto, CA MSA	715	790	930	1334	1540	Stanislaus
Napa, CA MSA	927	1040	1350	1867	2121	Napa
Oakland-Fremont, CA HMFA	963	1162	1377	1867	2312	Alameda, Contra Costa
Orange County, CA HMFA	1183	1336	1594	2256	2597	Orange

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 4

CALIFORNIA continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Oxnard-Thousand Oaks-Ventura, CA MSA	1053	1162	1479	2119	2424	Ventura
Redding, CA MSA	584	680	827	1207	1454	Shasta
Riverside-San Bernardino-Ontario, CA MSA	854	940	1108	1559	1818	Riverside, San Bernardino
Sacramento--Arden-Arcade--Roseville, CA HMFA	749	852	1039	1499	1719	El Dorado, Placer, Sacramento
Salinas, CA MSA	868	977	1122	1585	1661	Monterey
San Benito County, CA HMFA	797	1080	1201	1702	2107	San Benito
San Diego-Carlsbad-San Marcos, CA MSA	945	1082	1324	1883	2326	San Diego
San Francisco, CA HMFA	1144	1406	1760	2350	2483	Marin, San Francisco, San Mateo
San Jose-Sunnyvale-Santa Clara, CA HMFA	1032	1196	1438	2068	2276	Santa Clara
San Luis Obispo-Paso Robles, CA MSA	805	952	1160	1690	1739	San Luis Obispo
Santa Barbara-Santa Maria-Goleta, CA MSA	1005	1122	1259	1658	1892	Santa Barbara
Santa Cruz-Watsonville, CA MSA	1076	1270	1656	2383	2456	Santa Cruz
Santa Rosa-Petaluma, CA MSA	850	1034	1306	1853	2167	Sonoma
Stockton, CA MSA	673	768	947	1300	1637	San Joaquin
Vallejo-Fairfield, CA MSA	980	1055	1210	1696	2090	Solano
Visalia-Porterville, CA MSA	517	578	672	961	987	Tulare
Yolo, CA HMFA	813	861	1052	1533	1631	Yolo
Yuba City, CA MSA	550	620	763	1110	1188	Sutter, Yuba

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alpine	642	720	918	1309	1348	Amador	692	812	1065	1547	1594
Calaveras	707	708	851	1241	1368	Colusa	644	647	841	1086	1476
Del Norte	632	640	828	1206	1243	Glenn	552	566	745	969	995
Humboldt	586	686	903	1295	1434	Inyo	581	608	791	1152	1359
Lake	580	680	885	1282	1428	Lassen	563	660	867	1261	1299
Mariposa	642	720	918	1309	1348	Mendocino	646	797	969	1323	1700
Modoc	558	617	807	1150	1194	Mono	756	911	1163	1593	2043
Nevada	726	848	1117	1613	1963	Plumas	575	673	887	1294	1558
Sierra	679	791	1044	1479	1831	Siskiyou	501	601	769	1094	1127
Tehama	524	596	778	1130	1358	Trinity	568	596	782	1073	1190
Tuolumne	624	742	959	1325	1366						

COLORADO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder, CO MSA	729	844	1059	1544	1851	Boulder
Colorado Springs, CO HMFA	561	630	795	1134	1342	El Paso

*Denver-Aurora-Broomfield, CO MSA	638	728	921	1308	1524	Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Park
Fort Collins-Loveland, CO MSA	572	686	832	1211	1412	Larimer
Grand Junction, CO MSA	583	584	701	1021	1234	Mesa
Greeley, CO MSA	533	565	691	1008	1189	Weld
Pueblo, CO MSA	490	516	678	888	1005	Pueblo
Teller County, CO HMFA	575	673	885	1289	1552	Teller

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 5

COLORADO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa	428	530	588	799	1033
Baca	450	528	588	837	904
Chaffee	436	549	669	975	1004
Conejos	450	528	588	837	904
Crowley	468	483	588	771	947
Delta	512	523	616	845	871
Eagle	868	1013	1333	1677	2290
Garfield	889	1012	1122	1385	1426
Gunnison	538	591	768	1063	1349
Huerfano	450	528	588	837	904
Kiowa	468	483	588	771	947
Lake	656	827	999	1244	1753
Las Animas	400	530	588	758	783
Logan	460	462	588	766	886
Moffat	534	583	732	960	1285
Montrose	441	578	670	889	1102
Otero	459	485	588	814	838
Phillips	468	483	588	771	947
Prowers	451	529	588	797	1034
Rio Grande	451	528	588	853	906
Saguache	450	528	588	837	904
San Miguel	706	848	1083	1579	1627
Summit	758	891	1165	1659	2045
Yuma	468	483	588	771	947

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Archuleta	524	616	775	942	1217
Bent	468	483	588	771	947
Cheyenne	468	483	588	771	947
Costilla	450	528	588	837	904
Custer	466	545	718	1005	1157
Dolores	523	613	710	940	1213
Fremont	415	495	636	913	1046
Grand	520	594	755	1099	1132
Hinsdale	656	827	999	1244	1753
Jackson	583	674	748	964	1164
Kit Carson	468	483	588	771	947
La Plata	574	701	802	1125	1281
Lincoln	468	483	588	771	947
Mineral	656	827	999	1244	1753
Montezuma	459	537	620	740	989
Morgan	498	539	601	801	967
Ouray	656	827	999	1244	1753
Pitkin	917	1072	1410	1958	2476
Rio Blanco	583	674	748	964	1164
Routt	676	800	1040	1244	1826
San Juan	523	613	710	940	1213
Sedgwick	468	483	588	771	947
Washington	468	483	588	771	947

CONNECTICUT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT HMFA	833	1076	1283	1533	1862	Fairfield County towns of Bridgeport town, Easton town, Fairfield town, Monroe town, Shelton town, Stratford town, Trumbull town
Colchester-Lebanon, CT HMFA	739	868	1139	1362	1406	New London County towns of Colchester town, Lebanon town
Danbury, CT HMFA	1033	1254	1591	1904	2361	Fairfield County towns of Bethel town, Brookfield town, Danbury town, New Fairfield town, Newtown town, Redding town, Ridgefield town, Sherman town
*Hartford-West Hartford-East Hartford, CT HMFA	748	896	1095	1315	1633	Hartford County towns of Avon town, Berlin town, Bloomfield town, Bristol town, Burlington town, Canton town, East Granby town, East Hartford town, East Windsor town,

Enfield town, Farmington town, Glastonbury town, Granby town,
Hartford town, Hartland town, Manchester town,
Marlborough town, New Britain town, Newington town,
Plainville town, Rocky Hill town, Simsbury town,
Southington town, South Windsor town, Suffield town,
West Hartford town, Wethersfield town, Windsor town,
Windsor Locks town

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 6

CONNECTICUT continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Middlesex County towns of Chester town, Cromwell town, Durham town, East Haddam town, East Hampton town, Haddam town, Middlefield town, Middletown town, Portland town
						Tolland County towns of Andover town, Bolton town, Columbia town, Coventry town, Ellington town, Hebron town, Mansfield town, Somers town, Stafford town, Tolland town, Union town, Vernon town, Willington town
Milford-Ansonia-Seymour, CT HMFA	909	1054	1179	1501	1648	New Haven County towns of Ansonia town, Beacon Falls town, Derby town, Milford town, Oxford town, Seymour town
*New Haven-Meriden, CT HMFA	862	978	1181	1414	1616	New Haven County towns of Bethany town, Branford town, Cheshire town, East Haven town, Guilford town, Hamden town, Madison town, Meriden town, New Haven town, North Branford town, North Haven town, Orange town, Wallingford town, West Haven town, Woodbridge town
Norwich-New London, CT HMFA	740	878	1016	1244	1374	New London County towns of Bozrah town, East Lyme town, Franklin town, Griswold town, Groton town, Ledyard town, Lisbon town, Lyme town, Montville town, New London town, North Stonington town, Norwich town, Old Lyme town, Preston town, Salem town, Sprague town, Stonington town, Voluntown town, Waterford town
Southern Middlesex County, CT HMFA	870	916	1166	1496	1706	Middlesex County towns of Clinton town, Deep River town, Essex town, Killingworth town, Old Saybrook town, Westbrook town
Stamford-Norwalk, CT HMFA	1183	1440	1800	2345	2833	Fairfield County towns of Darien town, Greenwich town, New Canaan town, Norwalk town, Stamford town, Weston town, Westport town, Wilton town
Waterbury, CT HMFA	616	796	947	1134	1180	New Haven County towns of Middlebury town, Naugatuck town, Prospect town, Southbury town, Waterbury town, Wolcott town
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Litchfield County, CT	668	870	1027	1319	1483	Barkhamsted town, Bethlehem town, Bridgewater town, Canaan town, Colebrook town, Cornwall town, Goshen town, Harwinton town, Kent town, Litchfield town, Morris town, New Hartford town, New Milford town, Norfolk town, North Canaan town, Plymouth town, Roxbury town, Salisbury town, Sharon town, Thomaston town, Torrington town, Warren town, Washington town, Watertown town, Winchester town, Woodbury town
Windham County, CT	617	747	899	1131	1200	Ashford town, Brooklyn town, Canterbury town, Chaplin town, Eastford town, Hampton town, Killingly town, Plainfield town, Pomfret town, Putnam town, Scotland town, Sterling town, Thompson town, Windham town, Woodstock town

DELAWARE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	696	757	838	1096	1472	Kent

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DELAWARE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA..	803	915	1095	1339	1615	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex	640	697	774	1059	1090

DISTRICT OF COLUMBIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Washington-Arlington-Alexandria, DC-VA-MD HMFA...	1156	1318	1494	1927	2522	District of Columbia

FLORIDA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baker County, FL HMFA	382	529	588	860	883	Baker
*Bradenton-Sarasota-Venice, FL MSA	871	953	1147	1465	1609	Manatee, Sarasota
Cape Coral-Fort Myers, FL MSA	837	903	1029	1398	1440	Lee
Deltona-Daytona Beach-Ormond Beach, FL MSA	652	762	948	1226	1262	Volusia
*Fort Lauderdale, FL HMFA	1010	1130	1358	1878	2385	Broward
Fort Walton Beach-Crestview-Destin, FL MSA	655	767	863	1259	1383	Okaloosa
Gainesville, FL MSA	663	731	833	1218	1255	Alachua, Gilchrist
Jacksonville, FL HMFA	682	776	903	1133	1299	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	620	684	788	999	1173	Polk
Miami-Miami Beach-Kendall, FL HMFA	878	994	1206	1542	1803	Miami-Dade
Naples-Marco Island, FL MSA	918	1052	1185	1473	1533	Collier
Ocala, FL MSA	655	675	792	1040	1071	Marion
Orlando-Kissimmee, FL MSA	847	921	1052	1317	1551	Lake, Orange, Osceola, Seminole
Palm Bay-Melbourne-Titusville, FL MSA	636	778	916	1234	1376	Brevard
Palm Coast, FL MSA	699	806	1014	1420	1514	Flagler
Panama City-Lynn Haven-Panama City Beach, FL MSA..	675	711	815	1126	1252	Bay
Pensacola-Ferry Pass-Brent, FL MSA	662	720	799	1158	1401	Escambia, Santa Rosa
Port St. Lucie, FL MSA	763	765	969	1281	1320	Martin, St. Lucie
Punta Gorda, FL MSA	683	715	928	1355	1630	Charlotte
Sebastian-Vero Beach, FL MSA	628	757	966	1203	1237	Indian River
Tallahassee, FL HMFA	687	764	943	1258	1295	Gadsden, Jefferson, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	714	793	959	1215	1467	Hernando, Hillsborough, Pasco, Pinellas
Wakulla County, FL HMFA	646	701	780	1026	1058	Wakulla
*West Palm Beach-Boca Raton, FL HMFA	910	1066	1259	1780	1834	Palm Beach

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR

Bradford	422	585	649	804	829	Calhoun	545	546	654	824	940
Citrus	583	634	702	1019	1226	Columbia	508	587	694	866	1217
DeSoto	573	586	689	831	855	Dixie	485	530	588	734	818
Franklin	544	545	654	823	937	Glades	603	642	730	891	952
Gulf	545	546	654	824	940	Hamilton	485	530	588	734	818
Hardee	573	621	689	845	869	Hendry	547	654	729	876	1081

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FLORIDA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Highlands	618	621	744	963	1150	Holmes	519	552	626	814	855
Jackson	414	532	592	733	855	Lafayette	485	530	588	734	818
Levy	507	543	611	780	803	Liberty	545	546	654	824	940
Madison	545	546	654	824	940	Monroe	910	1108	1365	1986	2127
Okeechobee	616	637	742	999	1029	Putnam	515	558	620	744	766
Sumter	489	531	590	775	1036	Suwannee	390	530	588	741	812
Taylor	554	601	668	799	821	Union	506	582	654	865	892
Walton	609	628	735	908	936	Washington	392	445	588	843	867

GEORGIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	516	550	646	867	895	Baker, Dougherty, Lee, Terrell, Worth
Athens-Clarke County, GA MSA	552	614	770	1026	1058	Clarke, Madison, Oconee, Oglethorpe
Atlanta-Sandy Springs-Marietta, GA HMFA	757	820	912	1110	1211	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Heard, Henry, Jasper, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, Walton
Augusta-Richmond County, GA-SC MSA	533	578	649	869	914	Burke, Columbia, McDuffie, Richmond
Brunswick, GA MSA	517	562	624	889	1096	Brantley, Glynn, McIntosh
Butts County, GA HMFA	424	566	654	954	1136	Butts
Chattanooga, TN-GA MSA	537	568	669	824	968	Catoosa, Dade, Walker
Columbus, GA-AL MSA	550	579	663	882	1044	Chattahoochee, Harris, Marion, Muscogee
Dalton, GA HMFA	527	573	634	784	808	Whitfield
Gainesville, GA MSA	720	755	871	1070	1240	Hall
Haralson County, GA HMFA	456	478	548	798	967	Haralson
Hinesville-Fort Stewart, GA HMFA	522	567	631	888	1010	Liberty
Lamar County, GA HMFA	495	497	596	786	1046	Lamar
Long County, GA HMFA	465	505	562	770	794	Long
Macon, GA MSA	542	588	654	806	840	Bibb, Crawford, Jones, Twiggs
Meriwether County, GA HMFA	485	491	585	706	727	Meriwether
Monroe County, GA HMFA	522	568	630	755	780	Monroe
Murray County, GA HMFA	494	533	594	710	731	Murray
Rome, GA MSA	498	508	655	804	830	Floyd
Savannah, GA MSA	676	732	815	1082	1117	Bryan, Chatham, Effingham
Valdosta, GA MSA	532	534	642	871	898	Brooks, Echols, Lanier, Lowndes
Warner Robins, GA MSA	590	600	713	1035	1190	Houston

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Appling	454	494	548	668	688
Bacon	455	476	548	698	795
Banks	474	513	569	691	982
Berrien	449	450	548	679	700
Bulloch	505	522	619	743	763
Camden	564	565	681	991	1195
Charlton	455	476	548	698	795

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Atkinson	455	476	548	698	795
Baldwin	427	515	639	763	787
Ben Hill	360	464	554	670	689
Bleckley	385	449	548	678	777
Calhoun	455	493	548	703	864
Candler	454	494	548	668	688
Chattooga	357	437	548	657	956

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GEORGIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clay	455	493	548	703	864
Coffee	454	470	548	682	835
Cook	455	465	548	745	963
Decatur	407	473	623	745	828
Dooly	455	471	548	691	933
Elbert	455	475	548	688	710
Evans	454	494	548	668	688
Franklin	474	513	569	691	982
Glascock	393	416	548	656	770
Grady	356	492	548	760	785
Habersham	541	544	651	780	1143
Hart	455	493	548	654	961
Jackson	565	613	682	829	1082
Jefferson	393	437	548	656	770
Johnson	413	506	564	729	761
Lincoln	455	475	548	688	710
Macon	455	471	548	691	933
Mitchell	357	453	548	657	912
Morgan	493	494	609	729	750
Pierce	455	476	548	698	795
Pulaski	415	486	548	797	837
Quitman	455	493	548	703	864
Randolph	455	493	548	703	864
Screven	393	416	548	656	770
Stephens	366	508	564	675	697
Sumter	429	482	592	709	1040
Taliaferro	455	475	548	688	710
Taylor	455	471	548	691	933
Thomas	503	545	606	778	1064
Toombs	356	493	548	763	845
Treutlen	415	486	548	733	838
Turner	455	482	548	695	848
Upson	386	523	595	711	732
Warren	455	475	548	688	710
Wayne	392	444	548	723	962

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clinch	455	476	548	698	795
Colquitt	456	492	548	656	825
Crisp	455	459	548	692	713
Dodge	432	434	548	733	754
Early	455	493	548	703	864
Emanuel	358	415	548	668	854
Fannin	371	516	572	685	821
Gilmer	537	581	648	855	1032
Gordon	537	541	695	831	858
Greene	455	475	548	688	710
Hancock	455	475	548	688	710
Irwin	455	482	548	695	848
Jeff Davis	454	494	548	668	688
Jenkins	393	416	548	656	770
Laurens	455	495	548	736	893
Lumpkin	481	625	742	1002	1111
Miller	423	492	548	686	818
Montgomery	415	486	548	733	838
Peach	497	498	601	860	905
Polk	450	501	611	753	778
Putnam	413	418	548	796	819
Rabun	539	559	649	837	1009
Schley	455	471	548	691	933
Seminole	423	492	548	686	818
Stewart	455	493	548	703	864
Talbot	525	526	635	782	805
Tattnall	456	493	548	723	791
Telfair	415	486	548	733	838
Tift	478	518	574	733	847
Towns	539	559	649	833	1009
Troup	525	531	666	842	870
Union	539	559	649	833	1009
Ware	454	490	548	702	737
Washington	393	451	548	670	770
Webster	455	471	548	691	933

Wheeler	415	486	548	733	838	White	480	599	665	839	1010
Wilcox	415	486	548	733	838	Wilkes	455	475	548	688	710
Wilkinson	413	506	564	729	761						

HAWAII

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	1191	1397	1704	2473	2767	Honolulu

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HAWAII continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hawaii	818	982	1102	1554	1703	Kalawao	982	1132	1330	1681	1914
Kauai	943	1062	1399	1756	1911	Maui	1207	1337	1555	2081	2228

IDAHO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City-Nampa, ID HMFA	516	611	721	1048	1115	Ada, Boise, Canyon, Owyhee
Coeur d'Alene, ID MSA	564	609	733	1066	1192	Kootenai
Gem County, ID HMFA	500	606	673	979	1007	Gem
Idaho Falls, ID MSA	480	505	645	884	1110	Bonneville, Jefferson
Lewiston, ID-WA MSA	494	513	642	912	1111	Nez Perce
Logan, UT-ID MSA	491	530	663	889	1098	Franklin
Pocatello, ID MSA	412	479	617	892	1045	Bannock, Power

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	482	503	633	857	1021	Bear Lake	411	474	606	861	1016
Benewah	554	564	708	1012	1043	Bingham	415	460	590	812	838
Blaine	801	870	966	1372	1693	Bonner	560	588	721	1020	1050
Boundary	554	564	708	1012	1043	Butte	459	491	627	887	1053
Camas	491	537	670	883	945	Caribou	411	474	606	861	1016
Cassia	491	537	670	883	945	Clark	459	491	627	887	1053
Clearwater	490	507	628	906	1046	Custer	459	491	627	887	1053
Elmore	418	487	641	813	995	Fremont	459	491	627	887	1053
Gooding	491	537	670	883	945	Idaho	479	513	676	808	956
Jerome	491	537	670	883	945	Latah	493	515	622	907	1049
Lemhi	459	491	627	887	1053	Lewis	490	507	628	906	1046
Lincoln	491	537	670	883	945	Madison	457	458	588	854	929
Minidoka	381	502	588	779	801	Oneida	411	474	606	861	1016
Payette	415	500	635	804	1050	Shoshone	486	487	588	774	820
Teton	459	491	627	887	1053	Twin Falls	443	538	682	879	1040
Valley	482	503	633	857	1021	Washington	482	503	633	857	1021

ILLINOIS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	515	569	718	960	1200	McLean

Bond County, IL HMFA	406	434	563	819	963	Bond	
Cape Girardeau-Jackson, MO-IL MSA	388	442	577	746	917	Alexander	
Champaign-Urbana, IL MSA	493	599	705	885	1215	Champaign, Ford, Piatt	
*Chicago-Naperville-Joliet, IL HMFA	790	903	1015	1240	1402	Cook, DuPage, Kane, Lake, McHenry, Will	
Danville, IL MSA	389	465	599	717	761	Vermilion	
Davenport-Moline-Rock Island, IA-IL MSA	463	516	650	829	864	Henry, Mercer, Rock Island	
DeKalb County, IL HMFA	578	653	858	1113	1365	DeKalb	
Decatur, IL MSA	407	485	615	820	846	Macon	

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 11

ILLINOIS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Grundy County, IL HMFA	582	682	894	1126	1515	Grundy
Kankakee-Bradley, IL MSA	520	566	747	969	1038	Kankakee
Kendall County, IL HMFA	819	820	985	1385	1500	Kendall
Macoupin County, IL HMFA	514	515	619	771	799	Macoupin
Peoria, IL MSA	470	556	692	891	1012	Marshall, Peoria, Stark, Tazewell, Woodford
Rockford, IL MSA	497	560	710	929	956	Boone, Winnebago
Springfield, IL MSA	437	514	664	867	967	Menard, Sangamon
St. Louis, MO-IL HMFA	572	621	771	993	1039	Calhoun, Clinton, Jersey, Madison, Monroe, St. Clair

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	367	435	563	731	755	Brown	365	444	563	752	775
Bureau	398	463	611	753	825	Carroll	428	484	609	758	780
Cass	445	447	563	716	738	Christian	368	471	563	727	851
Clark	364	508	563	819	846	Clay	369	460	563	752	773
Coles	389	498	599	845	1052	Crawford	367	434	563	740	776
Cumberland	390	485	586	780	1028	De Witt	463	464	566	739	865
Douglas	380	477	586	834	860	Edgar	366	428	563	708	730
Edwards	459	467	563	741	817	Effingham	495	496	597	754	797
Fayette	467	480	563	779	803	Franklin	364	447	563	699	988
Fulton	391	467	563	720	893	Gallatin	459	467	563	741	817
Greene	387	431	566	717	753	Hamilton	459	467	563	741	817
Hancock	470	471	563	677	700	Hardin	459	467	563	741	817
Henderson	388	454	563	711	850	Iroquois	419	465	563	708	830
Jackson	381	465	586	798	993	Jasper	365	453	563	741	762
Jefferson	480	493	588	740	762	Jo Daviess	442	473	563	750	774
Johnson	459	467	563	741	817	Knox	388	454	597	793	817
La Salle	465	502	661	834	1073	Lawrence	365	428	563	749	772
Lee	405	498	598	798	929	Livingston	418	513	645	770	802
Logan	483	484	579	795	911	McDonough	379	447	563	722	944
Marion	410	471	563	720	793	Mason	365	463	563	791	816
Massac	468	469	563	820	846	Montgomery	468	469	563	675	836
Morgan	397	461	608	755	819	Moultrie	376	444	578	728	884
Ogle	479	511	670	876	936	Perry	365	477	563	680	874
Pike	365	446	563	757	780	Pope	459	467	563	741	817
Pulaski	459	467	563	741	817	Putnam	381	445	586	741	810
Randolph	367	427	563	746	915	Richland	419	508	563	775	928

Saline	367	472	563	762	988	Schuyler	365	446	563	757	780
Scott	387	431	566	717	753	Shelby	467	468	563	734	830
Stephenson	422	494	651	779	803	Union	468	470	563	690	857
Wabash	459	467	563	741	817	Warren	366	428	563	703	801
Washington	390	446	563	723	745	Wayne	365	443	563	717	738
White	459	467	563	741	817	Whiteside	431	507	625	774	795
Williamson	368	430	563	811	836						

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 12

INDIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anderson, IN MSA	563	564	678	872	908	Madison
Bloomington, IN HMFA	479	555	677	962	994	Monroe
Carroll County, IN HMFA	410	481	631	830	855	Carroll
Cincinnati-Middleton, OH-KY-IN HMFA	473	560	726	972	1009	Dearborn, Franklin, Ohio
Columbus, IN MSA	651	652	783	960	1027	Bartholomew
Elkhart-Goshen, IN MSA	537	599	740	930	975	Elkhart
Evansville, IN-KY HMFA	435	508	632	780	848	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	472	502	627	782	804	Allen, Wells, Whitley
Gary, IN HMFA	537	669	816	975	1006	Lake, Newton, Porter
Gibson County, IN HMFA	490	492	588	752	1034	Gibson
Greene County, IN HMFA	456	457	588	853	882	Greene
Indianapolis, IN HMFA	548	635	754	976	1032	Boone, Brown, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby
Jasper County, IN HMFA	593	595	739	964	993	Jasper
Kokomo, IN MSA	542	548	696	887	913	Howard, Tipton
Lafayette, IN HMFA	538	636	781	1017	1163	Benton, Tippecanoe
Louisville, KY-IN HMFA	499	577	684	956	1015	Clark, Floyd, Harrison
Michigan City-La Porte, IN MSA	465	537	682	906	932	LaPorte
Muncie, IN MSA	556	568	687	925	971	Delaware
Owen County, IN HMFA	499	501	600	760	1054	Owen
Putnam County, IN HMFA	554	555	668	798	900	Putnam
South Bend-Mishawaka, IN HMFA	535	595	716	919	946	St. Joseph
Sullivan County, IN HMFA	381	447	588	703	724	Sullivan
Terre Haute, IN HMFA	416	474	610	752	866	Clay, Vermillion, Vigo
Washington County, IN HMFA	447	500	588	723	963	Washington

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	489	530	588	769	907	Blackford	497	500	599	762	824
Cass	423	456	599	763	787	Clinton	517	548	670	837	878
Crawford	419	478	588	727	770	Daviess	489	492	588	765	938
Decatur	560	563	676	876	903	DeKalb	478	511	649	892	917
Dubois	391	469	601	820	844	Fayette	398	492	611	809	832
Fountain	432	519	588	787	823	Fulton	497	516	599	846	872
Grant	509	510	616	777	907	Henry	528	530	635	817	913
Huntington	454	541	640	799	967	Jackson	544	545	663	852	1034
Jay	382	468	588	797	822	Jefferson	432	463	610	730	903
Jennings	419	495	647	784	1079	Knox	409	466	588	728	908
Kosciusko	441	514	676	860	1001	LaGrange	535	536	643	775	860

Lawrence	421	498	649	776	798	Marshall	460	530	659	869	896
Martin	419	462	588	724	847	Miami	382	449	588	856	923
Montgomery	428	505	642	874	921	Noble	571	572	688	822	846
Orange	380	446	588	740	807	Parke	489	492	588	741	933
Perry	382	447	588	763	788	Pike	382	451	588	761	785
Pulaski	501	502	604	802	827	Randolph	489	490	588	838	865
Ripley	555	556	670	807	923	Rush	525	527	633	758	831
Scott	438	491	621	802	929	Spencer	382	451	588	761	785

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 13

INDIANA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Starke	503	531	607	802	844	Steuben	486	554	728	878	903
Switzerland	458	496	653	818	912	Union	411	502	634	789	815
Wabash	384	447	588	804	916	Warren	413	508	636	782	908
Wayne	415	488	612	830	856	White	441	609	676	808	1141

IOWA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ames, IA MSA	558	589	728	1042	1233	Story
Benton County, IA HMFA	355	419	547	681	912	Benton
Bremer County, IA HMFA	359	442	551	660	892	Bremer
Cedar Rapids, IA HMFA	429	499	658	932	1059	Linn
Davenport-Moline-Rock Island, IA-IL MSA	463	516	650	829	864	Scott
Des Moines-West Des Moines, IA MSA	506	604	737	944	1052	Dallas, Guthrie, Madison, Polk, Warren
Dubuque, IA MSA	411	442	581	781	851	Dubuque
Iowa City, IA HMFA	488	582	734	1069	1251	Johnson
Jones County, IA HMFA	455	456	547	767	790	Jones
Omaha-Council Bluffs, NE-IA HMFA	540	614	766	1023	1052	Harrison, Mills, Pottawattamie
Sioux City, IA-NE-SD MSA	429	504	661	832	857	Woodbury
Washington County, IA HMFA	361	435	553	706	848	Washington
Waterloo-Cedar Falls, IA HMFA	412	507	606	744	911	Black Hawk, Grundy

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	374	416	547	667	746	Adams	374	416	547	667	746
Allamakee	388	427	547	709	754	Appanoose	355	415	547	691	757
Audubon	409	420	547	719	753	Boone	408	492	627	816	878
Buchanan	454	455	547	706	725	Buena Vista	426	430	563	676	775
Butler	388	427	547	709	754	Calhoun	433	434	547	703	735
Carroll	371	432	570	680	701	Cass	408	498	626	767	826
Cedar	387	427	563	728	788	Cerro Gordo	413	459	604	750	771
Cherokee	409	420	547	719	753	Chickasaw	388	427	547	709	754
Clarke	374	427	561	672	748	Clay	355	415	547	664	832
Clayton	388	427	547	709	754	Clinton	355	416	547	697	796
Crawford	409	432	547	719	753	Davis	374	416	547	667	746
Decatur	374	416	547	667	746	Delaware	387	427	563	728	788
Des Moines	424	463	587	738	831	Dickinson	354	438	547	692	959
Emmet	385	415	547	670	786	Fayette	388	427	547	709	754
Floyd	384	415	547	684	705	Franklin	395	435	547	699	733

Fremont	408	498	626	767	826	Greene	409	420	547	719	753
Hamilton	425	426	547	689	720	Hancock	395	435	547	699	733
Hardin	468	470	562	672	715	Henry	460	462	553	791	815
Howard	388	427	547	709	754	Humboldt	433	434	547	703	735
Ida	409	420	547	719	753	Iowa	423	447	555	726	749
Jackson	387	427	563	728	788	Jasper	426	465	611	777	811

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 14

IOWA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Jefferson	457	465	550	692	842	Keokuk	374	416	547	667	746
Kossuth	395	435	547	699	733	Lee	399	464	547	694	713
Louisa	419	469	580	751	794	Lucas	374	416	547	667	746
Lyon	385	415	547	670	786	Mahaska	404	458	584	700	923
Marion	408	501	626	773	796	Marshall	417	484	604	777	892
Mitchell	395	435	547	699	733	Monona	409	420	547	719	753
Monroe	374	416	547	667	746	Montgomery	408	498	626	767	826
Muscatine	417	515	640	788	849	O'Brien	385	415	547	670	786
Osceola	385	415	547	670	786	Page	353	416	547	653	672
Palo Alto	385	415	547	670	786	Plymouth	453	455	547	737	759
Pocahontas	433	434	547	703	735	Poweshiek	381	445	585	748	770
Ringgold	374	416	547	667	746	Sac	409	420	547	719	753
Shelby	408	498	626	767	826	Sioux	444	451	547	740	761
Tama	423	447	555	726	749	Taylor	374	416	547	667	746
Union	374	416	547	667	746	Van Buren	374	416	547	667	746
Wapello	390	453	598	713	743	Wayne	374	416	547	667	746
Webster	416	424	550	761	785	Winnebago	395	435	547	699	733
Winneshiek	356	416	547	711	963	Worth	395	435	547	699	733
Wright	433	434	547	703	735						

KANSAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Franklin County, KS HMFA	530	531	658	838	896	Franklin
*Kansas City, MO-KS HMFA	605	726	834	1128	1187	Johnson, Leavenworth, Linn, Miami, Wyandotte
Lawrence, KS MSA	561	576	741	1082	1301	Douglas
Manhattan, KS MSA	435	502	609	848	997	Geary, Pottawatomie, Riley
St. Joseph, MO-KS MSA	376	464	577	726	861	Doniphan
Sumner County, KS HMFA	367	431	567	763	888	Sumner
Topeka, KS MSA	491	535	655	831	873	Jackson, Jefferson, Osage, Shawnee, Wabaunsee
Wichita, KS HMFA	435	487	640	819	920	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	426	431	566	750	816	Anderson	409	455	566	729	794
Atchison	448	499	611	890	1073	Barber	368	434	566	737	869
Barton	367	443	566	752	974	Bourbon	410	436	566	818	921
Brown	448	499	611	890	1073	Chase	395	431	566	720	743

Chautauqua	409	455	566	729	794	Cherokee	472	489	566	792	972
Cheyenne	424	430	566	724	745	Clark	493	498	606	738	809
Clay	442	485	596	765	942	Cloud	442	450	569	747	772
Coffey	395	431	566	720	743	Comanche	368	434	566	737	869
Cowley	378	462	566	717	738	Crawford	404	473	622	838	934
Decatur	424	430	566	724	745	Dickinson	368	429	566	681	840

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 15

KANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Edwards	368	434	566	737	869
Ellis	408	462	608	841	880
Finney	501	501	647	785	995
Gove	424	430	566	724	745
Grant	493	498	606	738	809
Greeley	493	498	606	738	809
Hamilton	493	498	606	738	809
Haskell	493	498	606	738	809
Jewell	442	450	569	747	772
Kingman	368	434	566	737	869
Labette	368	440	566	767	789
Lincoln	442	450	569	747	772
Lyon	368	431	566	756	895
Marion	395	431	566	720	743
Meade	493	498	606	738	809
Montgomery	405	453	566	696	867
Morton	493	498	606	738	809
Neosho	367	441	566	674	990
Norton	424	430	566	724	745
Ottawa	442	450	569	747	772
Phillips	424	430	566	724	745
Rawlins	424	430	566	724	745
Republic	442	450	569	747	772
Rooks	424	430	566	724	745
Russell	424	430	566	724	745
Scott	493	498	606	738	809
Sheridan	424	430	566	724	745
Smith	424	430	566	724	745
Stanton	493	498	606	738	809
Thomas	421	430	566	719	741
Wallace	424	430	566	724	745
Wichita	493	498	606	738	809
Woodson	409	455	566	729	794

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Elk	409	455	566	729	794
Ellsworth	442	450	569	747	772
Ford	521	522	628	773	826
Graham	424	430	566	724	745
Gray	493	498	606	738	809
Greenwood	395	431	566	720	743
Harper	368	434	566	737	869
Hodgeman	493	498	606	738	809
Kearny	493	498	606	738	809
Kiowa	368	434	566	737	869
Lane	493	498	606	738	809
Logan	424	430	566	724	745
McPherson	471	472	566	741	762
Marshall	442	485	596	765	942
Mitchell	442	450	569	747	772
Morris	442	485	596	765	942
Nemaha	448	499	611	890	1073
Ness	493	498	606	738	809
Osborne	424	430	566	724	745
Pawnee	368	434	566	737	869
Pratt	368	431	566	734	865
Reno	406	451	592	811	835
Rice	411	449	568	753	776
Rush	368	434	566	737	869
Saline	471	473	622	829	853
Seward	427	525	607	745	903
Sherman	417	430	566	710	732
Stafford	368	434	566	737	869
Stevens	493	498	606	738	809
Trego	424	430	566	724	745
Washington	442	450	569	747	772
Wilson	409	454	566	727	792

KENTUCKY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bowling Green, KY MSA	462	552	671	894	1054	Edmonson, Warren
Cincinnati-Middleton, OH-KY-IN HMFA	473	560	726	972	1009	Boone, Bracken, Campbell, Gallatin, Kenton, Pendleton
Clarksville, TN-KY HMFA	550	572	664	960	988	Christian, Trigg
Elizabethtown, KY MSA	426	475	573	815	1003	Hardin, Larue
Evansville, IN-KY HMFA	435	508	632	780	848	Henderson, Webster
Grant County, KY HMFA	448	541	688	847	949	Grant

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 16

KENTUCKY continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Huntington-Ashland, WV-KY-OH MSA	414	490	588	725	749	Boyd, Greenup
Lexington-Fayette, KY MSA	492	591	729	980	1010	Bourbon, Clark, Fayette, Jessamine, Scott, Woodford
Louisville, KY-IN HMFA	499	577	684	956	1015	Bullitt, Henry, Jefferson, Oldham, Spencer, Trimble
Meade County, KY HMFA	475	476	570	731	820	Meade
Nelson County, KY HMFA	406	490	593	864	935	Nelson
Owensboro, KY MSA	415	461	607	842	892	Daviess, Hancock, McLean
Shelby County, KY HMFA	567	568	686	903	930	Shelby

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	384	426	507	618	690	Allen	332	431	507	677	876
Anderson	489	522	690	998	1190	Ballard	415	459	566	725	817
Barren	349	409	530	661	728	Bath	396	429	530	662	684
Bell	333	455	507	605	742	Boyle	425	470	618	740	764
Breathitt	421	442	507	630	659	Breckinridge	414	416	535	715	737
Butler	454	538	655	861	887	Caldwell	421	422	507	642	729
Calloway	504	505	607	748	1066	Carlisle	415	459	566	725	817
Carroll	499	500	621	821	892	Carter	330	440	510	607	687
Casey	384	426	507	618	690	Clay	329	455	507	605	623
Clinton	384	426	507	618	690	Crittenden	421	422	507	662	752
Cumberland	384	426	507	618	690	Elliott	443	444	535	680	804
Estill	421	422	507	648	854	Fleming	396	429	530	662	684
Floyd	384	430	507	665	767	Franklin	500	530	698	946	973
Fulton	415	459	566	725	817	Garrard	428	478	574	685	1005
Graves	407	409	507	605	738	Grayson	422	423	507	661	776
Green	382	423	507	613	684	Harlan	420	452	507	624	788
Harrison	436	438	573	751	776	Hart	377	412	507	647	753
Hickman	415	459	566	725	817	Hopkins	420	421	507	636	889
Jackson	420	442	507	613	631	Johnson	331	431	507	692	711
Knott	421	442	507	634	659	Knox	332	401	507	715	739
Laurel	421	456	507	623	851	Lawrence	329	384	507	677	698
Lee	421	442	507	634	659	Leslie	421	442	507	634	659
Letcher	421	442	507	630	659	Lewis	396	429	530	662	684
Lincoln	366	501	555	664	878	Livingston	420	421	507	652	741
Logan	449	487	542	742	822	Lyon	494	502	596	773	801
McCracken	380	478	587	787	811	McCreary	421	455	507	654	671
Madison	436	462	592	835	979	Magoffin	421	425	507	624	652

Marion	414	416	535	715	737	Marshall	454	456	549	715	931
Martin	421	425	507	624	652	Mason	342	437	528	770	884
Menifee	396	429	530	662	684	Mercer	462	492	558	735	865
Metcalfe	377	412	507	647	753	Monroe	377	412	507	647	753
Montgomery	407	475	626	747	770	Morgan	396	429	530	662	684
Muhlenberg	418	419	507	644	661	Nicholas	520	520	681	834	919
Ohio	419	445	507	672	738	Owen	554	632	722	972	1266

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 17

KENTUCKY continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Owsley	421	442	507	634	659	Perry	421	443	507	606	743
Pike	430	431	519	623	641	Powell	384	485	593	709	731
Pulaski	360	399	507	626	663	Robertson	396	429	530	662	684
Rockcastle	420	442	507	613	631	Rowan	446	494	550	690	712
Russell	384	426	507	618	690	Simpson	454	533	701	871	898
Taylor	334	456	507	654	858	Todd	494	502	596	773	801
Union	447	448	540	657	691	Washington	414	416	535	715	737
Wayne	332	405	507	657	677	Whitley	387	408	537	641	661
Wolfe	421	442	507	634	659						

LOUISIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	478	517	616	801	824	Grant, Rapides
Baton Rouge, LA HMFA	630	686	792	1010	1110	Ascension, East Baton Rouge, East Feliciana, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, West Feliciana
Houma-Bayou Cane-Thibodaux, LA MSA	530	534	663	871	993	Lafourche, Terrebonne
Iberville Parish, LA HMFA	470	471	567	768	791	Iberville
Lafayette, LA MSA	553	634	703	902	1144	Lafayette, St. Martin
Lake Charles, LA MSA	517	583	709	875	1232	Calcasieu, Cameron
Monroe, LA MSA	470	532	661	877	905	Ouachita, Union
New Orleans-Metairie-Kenner, LA MSA	758	840	982	1261	1303	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany
Shreveport-Bossier City, LA MSA	535	615	719	912	941	Bossier, Caddo, De Soto

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Acadia	441	441	537	679	779	Allen	445	447	537	780	866
Assumption	505	506	608	742	762	Avoyelles	347	473	537	731	873
Beauregard	459	471	554	807	971	Bienville	495	504	596	712	780
Caldwell	424	453	537	679	758	Catahoula	407	439	537	680	823
Claiborne	495	504	596	712	780	Concordia	407	439	537	696	823
East Carroll	424	453	537	679	758	Evangeline	444	446	537	688	707
Franklin	424	453	537	679	758	Iberia	510	523	617	762	888
Jackson	424	453	537	679	758	Jefferson Davis	446	447	537	680	698
La Salle	407	439	537	680	823	Lincoln	530	547	637	829	856

Madison	424	453	537	679	758	Morehouse	457	459	571	685	741
Natchitoches	518	519	622	745	962	Red River	495	504	596	712	780
Richland	424	453	537	679	758	Sabine	495	504	596	712	780
St. James	515	601	737	904	932	St. Landry	351	420	537	725	771
St. Mary	489	498	598	782	807	Tangipahoa	466	542	682	817	970
Tensas	424	453	537	679	758	Vermilion	447	448	537	736	761
Vernon	440	484	537	780	931	Washington	446	450	537	715	737
Webster	433	434	549	740	764	West Carroll	424	453	537	679	758
Winn	446	483	537	677	721						

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 18

MAINE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME HMFA	542	632	806	1024	1157	Penobscot County towns of Bangor city, Brewer city, Eddington town, Glenburn town, Hampden town, Hermon town, Holden town, Kenduskeag town, Milford town, Old Town city, Orono town, Orrington town, Penobscot Indian Island Reservation, Veazie town
Cumberland County, ME (part) HMFA	591	705	909	1085	1391	Cumberland County towns of Baldwin town, Bridgton town, Brunswick town, Harpswell town, Harrison town, Naples town, New Gloucester town, Pownal town, Sebago town
Lewiston-Auburn, ME MSA	447	560	684	867	960	Androscoggin County towns of Auburn city, Durham town, Greene town, Leeds town, Lewiston city, Lisbon town, Livermore town, Livermore Falls town, Mechanic Falls town, Minot town, Poland town, Sabattus town, Turner town, Wales town
Penobscot County, ME (part) HMFA	554	555	667	834	1023	Penobscot County towns of Alton town, Argyle UT, Bradford town, Bradley town, Burlington town, Carmel town, Carroll plantation, Charleston town, Chester town, Clifton town, Corinna town, Corinth town, Dexter town, Dixmont town, Drew plantation, East Central Penobscot UT, East Millinocket town, Edinburg town, Enfield town, Etna town, Exeter town, Garland town, Greenbush town, Howland town, Hudson town, Kingman UT, Lagrange town, Lakeville town, Lee town, Levant town, Lincoln town, Lowell town, Mattawamkeag town, Maxfield town, Medway town, Millinocket town, Mount Chase town, Newburgh town, Newport town, North Penobscot UT, Passadumkeag town, Patten town, Plymouth town, Prentiss UT, Seboeis plantation, Springfield town, Stacyville town, Stetson town, Twombly UT, Webster plantation, Whitney UT, Winn town, Woodville town
Portland, ME HMFA	721	856	1109	1397	1497	Cumberland County towns of Cape Elizabeth town, Casco town, Cumberland town, Falmouth town, Freeport town, Frye Island town, Gorham town, Gray town, Long Island town, North Yarmouth town, Portland city, Raymond town, Scarborough town, South Portland city, Standish town, Westbrook city, Windham town, Yarmouth town York County towns of Buxton town, Hollis town, Limington town, Old Orchard Beach town
Sagadahoc County, ME HMFA	714	715	857	1034	1484	Sagadahoc County towns of Arrowsic town, Bath city, Bowdoin town, Bowdoinham town, Georgetown town, Perkins UT, Phippsburg town, Richmond town, Topsham town, West Bath town, Woolwich town
York County, ME (part) HMFA	653	678	862	1031	1126	York County towns of Acton town, Alfred town, Arundel town, Biddeford city, Cornish town, Dayton town, Kennebunk town, Kennebunkport town, Lebanon town, Limerick town, Lyman town, Newfield town, North Berwick town, Ogunquit town, Parsonsfield town, Saco city, Sanford town, Shapleigh town, Waterboro town, Wells town

York-Kittery-South Berwick, ME HMFA	838	843	1011	1472	1604	York County towns of Berwick town, Eliot town, Kittery town, South Berwick town, York town

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 19

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Aroostook County, ME	422	520	623	813	896	Allagash town, Amity town, Ashland town, Bancroft town, Blaine town, Bridgewater town, Caribou city, Cary plantation, Castle Hill town, Caswell town, Central Aroostook UT, Chapman town, Connor UT, Crystal town, Cyr plantation, Dyer Brook town, Eagle Lake town, Easton town, Fort Fairfield town, Fort Kent town, Frenchville town, Garfield plantation, Glenwood plantation, Grand Isle town, Hamlin town, Hammond town, Haynesville town, Hersey town, Hodgdon town, Houlton town, Island Falls town, Limestone town, Linneus town, Littleton town, Ludlow town, Macwahoc plantation, Madawaska town, Mapleton town, Mars Hill town, Masardis town, Merrill town, Monticello town, Moro plantation, Nashville plantation, New Canada town, New Limerick town, New Sweden town, Northwest Aroostook UT, Oakfield town, Orient town, Oxbow plantation, Penobscot Indian Island Reservation, Perham town, Portage Lake town, Presque Isle city, Reed plantation, St. Agatha town, St. Francis town, St. John plantation, Sherman town, Smyrna town, South Aroostook UT, Square Lake UT, Stockholm town, Van Buren town, Wade town, Wallagrass town, Washburn town, Westfield town, Westmanland town, Weston town, Winterville plantation, Woodland town
Franklin County, ME	523	564	687	820	1065	Avon town, Carrabassett Valley town, Carthage town, Chesterville town, Coplin plantation, Dallas plantation, East Central Franklin UT, Eustis town, Farmington town, Industry town, Jay town, Kingfield town, Madrid town, New Sharon town, New Vineyard town, North Franklin UT, Phillips town, Rangeley town, Rangeley plantation, Sandy River plantation, South Franklin UT, Strong town, Temple town, Weld town, West Central Franklin UT, Wilton town, Wyman UT
Hancock County, ME	571	658	766	1079	1110	Amherst town, Aurora town, Bar Harbor town, Blue Hill town, Brooklin town, Brooksville town, Bucksport town, Castine town, Central Hancock UT, Cranberry Isles town, Dedham town, Deer Isle town, Eastbrook town, East Hancock UT, Ellsworth city, Franklin town, Frenchboro town, Gouldsboro town, Great Pond town, Hancock town, Lamoine town, Mariaville town, Mount Desert town, Northwest Hancock UT, Orland town, Osborn town, Otis town, Penobscot town, Sedgwick town, Sorrento town, Southwest Harbor town, Stonington town, Sullivan town, Surry town, Swans Island town, Tremont town, Trenton town, Verona town, Waltham town, Winter Harbor town
Kennebec County, ME	452	542	675	921	984	Albion town, Augusta city, Belgrade town, Benton town,

Chelsea town, China town, Clinton town, Farmingdale town,
Fayette town, Gardiner city, Hallowell city, Litchfield town,
Manchester town, Monmouth town, Mount Vernon town,
Oakland town, Pittston town, Randolph town, Readfield town,

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 20

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
						Rome town, Sidney town, Unity UT, Vassalboro town, Vienna town, Waterville city, Wayne town, West Gardiner town, Windsor town, Winslow town, Winthrop town
Knox County, ME	517	683	780	1056	1218	Appleton town, Camden town, Criehaven UT, Cushing town, Friendship town, Hope town, Isle au Haut town, Matinicus Isle plantation, North Haven town, Owls Head town, Rockland city, Rockport town, St. George town, South Thomaston town, Thomaston town, Union town, Vinalhaven town, Warren town, Washington town
Lincoln County, ME	625	671	809	977	1007	Alna town, Boothbay town, Boothbay Harbor town, Bremen town, Bristol town, Damariscotta town, Dresden town, Edgecomb town, Hibberts gore, Jefferson town, Monhegan plantation, Newcastle town, Nobleboro town, Somerville town, South Bristol town, Southport town, Waldoboro town, Westport town, Whitefield town, Wiscasset town
Oxford County, ME	436	580	668	890	1116	Andover town, Bethel town, Brownfield town, Buckfield town, Byron town, Canton town, Denmark town, Dixfield town, Fryeburg town, Gilead town, Greenwood town, Hanover town, Hartford town, Hebron town, Hiram town, Lincoln plantation, Lovell town, Magalloway plantation, Mexico town, Milton UT, Newry town, North Oxford UT, Norway town, Otisfield town, Oxford town, Paris town, Peru town, Porter town, Roxbury town, Rumford town, South Oxford UT, Stoneham town, Stow town, Sumner town, Sweden town, Upton town, Waterford town, West Paris town, Woodstock town
Piscataquis County, ME	542	618	765	971	1039	Abbot town, Atkinson town, Beaver Cove town, Blanchard UT, Bowerbank town, Brownville town, Dover-Foxcroft town, Greenville town, Guilford town, Kingsbury plantation, Lake View plantation, Medford town, Milo town, Monson town, Northeast Piscataquis UT, Northwest Piscataquis UT, Parkman town, Sangerville town, Sebec town, Shirley town, Southeast Piscataquis UT, Wellington town, Willimantic town
Somerset County, ME	435	539	639	902	957	Anson town, Athens town, Bingham town, Brighton plantation, Cambridge town, Canaan town, Caratunk town, Central Somerset UT, Cornville town, Dennistown plantation, Detroit town, Embden town, Fairfield town, Harmony town, Hartland town, Highland plantation, Jackman town, Madison town, Mercer town, Moose River town, Moscow town, New Portland town, Norridgewock town, Northeast Somerset UT, Northwest Somerset UT, Palmyra town, Pittsfield town, Pleasant Ridge plantation, Ripley town, St. Albans town, Seboomook Lake UT, Skowhegan town, Smithfield town, Solon town, Starks town, The Forks plantation, West Forks plantation
Waldo County, ME	608	652	787	965	1026	Belfast city, Belmont town, Brooks town, Burnham town,

Frankfort town, Freedom town, Islesboro town, Jackson town,
Knox town, Liberty town, Lincolnville town, Monroe town,
Montville town, Morrill town, Northport town, Palermo town,
Prospect town, Searsmont town, Searsport town,

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 21

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Washington County, ME	523	565	674	835	911	Stockton Springs town, Swanville town, Thorndike town, Troy town, Unity town, Waldo town, Winterport town Addison town, Alexander town, Baileyville town, Baring plantation, Beals town, Beddington town, Calais city, Centerville town, Charlotte town, Cherryfield town, Codyville plantation, Columbia town, Columbia Falls town, Cooper town, Crawford town, Cutler town, Danforth town, Deblois town, Dennysville town, East Central Washington UT, East Machias town, Eastport city, Grand Lake Stream plantation, Harrington town, Jonesboro town, Jonesport town, Lubec town, Machias town, Machiasport town, Marshfield town, Meddybemps town, Milbridge town, Northfield town, North Washington UT, Passamaquoddy Indian Township Reservation, Passamaquoddy Pleasant Point Reservation, Pembroke town, Perry town, Princeton town, Robbinston town, Roque Bluffs town, Steuben town, Talmadge town, Topsfield town, Vanceboro town, Waite town, Wesley town, Whiting town, Whitneyville town

MARYLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Baltimore-Towson, MD HMFA	887	1002	1203	1545	1908	Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Anne's, Baltimore city
Columbia city, MD HMFA	1287	1339	1553	2111	2458	Columbia city
Cumberland, MD-WV MSA	414	501	588	793	926	Allegany
Hagerstown, MD HMFA	539	619	791	1141	1178	Washington
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	803	915	1095	1339	1615	Cecil
Salisbury, MD HMFA	573	712	837	1037	1189	Wicomico
Somerset County, MD HMFA	565	601	708	877	1151	Somerset
*Washington-Arlington-Alexandria, DC-VA-MD HMFA	1156	1318	1494	1927	2522	Calvert, Charles, Frederick, Montgomery, Prince George's

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Caroline	642	663	776	1049	1078	Dorchester	483	580	739	997	1026
Garrett	403	499	620	800	1060	Kent	722	723	870	1067	1433
St. Mary's	812	842	1097	1441	1898	Talbot	751	753	906	1226	1295
Worcester	689	716	830	1212	1290						

MASSACHUSETTS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE

Barnstable Town, MA MSA	779	913	1201	1433	1478	Barnstable County towns of Barnstable Town city, Bourne town, Brewster town, Chatham town, Dennis town, Eastham town, Falmouth town, Harwich town, Mashpee town, Orleans town, Provincetown town, Sandwich town, Truro town, Wellfleet town,

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 22

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Yarmouth town
Berkshire County, MA (part) HMFA.....	618	694	801	1097	1128	Berkshire County towns of Alford town, Becket town, Clarksburg town, Egremont town, Florida town, Great Barrington town, Hancock town, Monterey town, Mount Washington town, New Ashford town, New Marlborough town, North Adams city, Otis town, Peru town, Sandisfield town, Savoy town, Sheffield town, Tyringham town, Washington town, West Stockbridge town, Williamstown town, Windsor town
Boston-Cambridge-Quincy, MA-NH HMFA.....	1090	1156	1357	1623	1783	Essex County towns of Amesbury town, Beverly city, Danvers town, Essex town, Gloucester city, Hamilton town, Ipswich town, Lynn city, Lynnfield town, Manchester-by-the-Sea town, Marblehead town, Middleton town, Nahant town, Newbury town, Newburyport city, Peabody city, Rockport town, Rowley town, Salem city, Salisbury town, Saugus town, Swampscott town, Topsfield town, Wenham town Middlesex County towns of Acton town, Arlington town, Ashby town, Ashland town, Ayer town, Bedford town, Belmont town, Boxborough town, Burlington town, Cambridge city, Carlisle town, Concord town, Everett city, Framingham town, Holliston town, Hopkinton town, Hudson town, Lexington town, Lincoln town, Littleton town, Malden city, Marlborough city, Maynard town, Medford city, Melrose city, Natick town, Newton city, North Reading town, Reading town, Sherborn town, Shirley town, Somerville city, Stoneham town, Stow town, Sudbury town, Townsend town, Wakefield town, Waltham city, Watertown city, Wayland town, Weston town, Wilmington town, Winchester town, Woburn city Norfolk County towns of Bellingham town, Braintree town, Brookline town, Canton town, Cohasset town, Dedham town, Dover town, Foxborough town, Franklin city, Holbrook town, Medfield town, Medway town, Millis town, Milton town, Needham town, Norfolk town, Norwood town, Plainville town, Quincy city, Randolph town, Sharon town, Stoughton town, Walpole town, Wellesley town, Westwood town, Weymouth town, Wrentham town Plymouth County towns of Carver town, Duxbury town, Hanover town, Hingham town, Hull town, Kingston town, Marshfield town, Norwell town, Pembroke town, Plymouth town, Rockland town, Scituate town, Wareham town Suffolk County towns of Boston city, Chelsea city, Revere city, Winthrop town
Brockton, MA HMFA.....	974	1014	1277	1527	1914	Norfolk County towns of Avon town Plymouth County towns of Abington town, Bridgewater town, Brockton city, East Bridgewater town, Halifax town, Hanson town, Lakeville town, Marion town, Mattapoisett town,

Eastern Worcester County, MA HMFA	725	810	1066	1274	1871

Middleborough town, Plympton town, Rochester town, West Bridgewater town, Whitman town
Worcester County towns of Berlin town, Blackstone town, Bolton town, Harvard town, Hopedale town, Lancaster town,

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 23

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Mendon town, Milford town, Millville town, Southborough town, Upton town
Easton-Raynham, MA HMFA	848	1124	1307	1563	2260	Bristol County towns of Easton town, Raynham town
Fitchburg-Leominster, MA HMFA	706	811	1017	1245	1353	Worcester County towns of Ashburnham town, Fitchburg city, Gardner city, Leominster city, Lunenburg town, Templeton town, Westminster town, Winchendon town
Franklin County, MA (part) HMFA	623	726	900	1201	1450	Franklin County towns of Ashfield town, Bernardston town, Buckland town, Charlemont town, Colrain town, Conway town, Deerfield town, Erving town, Gill town, Greenfield town, Hawley town, Heath town, Leverett town, Leyden town, Monroe town, Montague town, New Salem town, Northfield town, Orange town, Rowe town, Shelburne town, Shutesbury town, Warwick town, Wendell town, Whately town
Lawrence, MA-NH HMFA	761	968	1171	1398	1442	Essex County towns of Andover town, Boxford town, Georgetown town, Groveland town, Haverhill city, Lawrence city, Merrimac town, Methuen city, North Andover town, West Newbury town
Lowell, MA HMFA	843	1009	1297	1549	1699	Middlesex County towns of Billerica town, Chelmsford town, Dracut town, Dunstable town, Groton town, Lowell city, Pepperell town, Tewksbury town, Tyngsborough town, Westford town
New Bedford, MA HMFA	587	753	861	1031	1391	Bristol County towns of Acushnet town, Dartmouth town, Fairhaven town, Freetown town, New Bedford city
Pittsfield, MA HMFA	583	681	845	1086	1119	Berkshire County towns of Adams town, Cheshire town, Dalton town, Hinsdale town, Lanesborough town, Lee town, Lenox town, Pittsfield city, Richmond town, Stockbridge town
Providence-Fall River, RI-MA HMFA	751	836	963	1151	1419	Bristol County towns of Attleboro city, Fall River city, North Attleborough town, Rehoboth town, Seekonk town, Somerset town, Swansea town, Westport town
Springfield, MA HMFA	610	726	922	1104	1281	Franklin County towns of Sunderland town Hampden County towns of Agawam city, Blandford town, Brimfield town, Chester town, Chicopee city, East Longmeadow town, Granville town, Hampden town, Holland town, Holyoke city, Longmeadow town, Ludlow town, Monson town, Montgomery town, Palmer town, Russell town, Southwick town, Springfield city, Tolland town, Wales town, Westfield city, West Springfield town, Wilbraham town Hampshire County towns of Amherst town, Belchertown town, Chesterfield town, Cummington town, Easthampton city, Goshen town, Granby town, Hadley town, Hatfield town, Huntington town, Middlefield town, Northampton city, Pelham town, Plainfield town, Southampton town, South Hadley town, Ware town, Westhampton town, Williamsburg town, Worthington town
Taunton-Mansfield-Norton, MA HMFA	732	924	1128	1384	1493	Bristol County towns of Berkley town, Dighton town, Mansfield town, Norton town, Taunton city

Western Worcester County, MA HMFA	567	780	874	1043	1340	Worcester County towns of Athol town, Hardwick town, Hubbardston town, New Braintree town, Petersham town, Phillipston town, Royalston town, Warren town
Worcester, MA HMFA	708	814	991	1185	1257	Worcester County towns of Auburn town, Barre town,

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 24

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Boylston town, Brookfield town, Charlton town, Clinton town, Douglas town, Dudley town, East Brookfield town, Grafton town, Holden town, Leicester town, Millbury town, Northborough town, Northbridge town, North Brookfield town, Oakham town, Oxford town, Paxton town, Princeton town, Rutland town, Shrewsbury town, Southbridge town, Spencer town, Sterling town, Sturbridge town, Sutton town, Uxbridge town, Webster town, Westborough town, West Boylston town, West Brookfield town, Worcester city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Dukes County, MA	936	1188	1414	1690	1742	Aquinnah town, Chilmark town, Edgartown town, Gosnold town, Oak Bluffs town, Tisbury town, West Tisbury town
Nantucket County, MA	1096	1516	1683	2013	2073	Nantucket town

MICHIGAN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI MSA	649	728	886	1115	1147	Washtenaw
Barry County, MI HMFA	438	552	675	973	1071	Barry
Battle Creek, MI MSA	488	560	685	834	859	Calhoun
Bay City, MI MSA	450	504	612	817	841	Bay
Cass County, MI HMFA	479	548	606	803	933	Cass
Detroit-Warren-Livonia, MI HMFA	584	665	796	952	981	Lapeer, Macomb, Oakland, St. Clair, Wayne
Flint, MI MSA	525	554	665	824	850	Genesee
*Grand Rapids-Wyoming, MI HMFA	582	622	749	956	1001	Kent
Holland-Grand Haven, MI MSA	613	623	748	1035	1118	Ottawa
Ionia County, MI HMFA	467	541	660	790	880	Ionia
Jackson, MI MSA	509	568	678	843	868	Jackson
Kalamazoo-Portage, MI MSA	527	562	683	908	947	Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	565	614	760	963	1044	Clinton, Eaton, Ingham
Livingston County, MI HMFA	709	748	880	1269	1544	Livingston
Monroe, MI MSA	634	637	766	1000	1102	Monroe
Muskegon-Norton Shores, MI MSA	454	474	615	813	836	Muskegon
Newaygo County, MI HMFA	515	544	621	840	864	Newaygo
Niles-Benton Harbor, MI MSA	478	535	653	799	1025	Berrien
Saginaw-Saginaw Township North, MI MSA	471	539	680	815	837	Saginaw

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcona	415	480	588	792	838

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alger	389	493	588	725	816

Allegan	487	587	704	882	946	Alpena	465	527	588	812	898
Antrim	506	507	612	851	1073	Arenac	467	493	588	787	871
Baraga	389	493	588	725	816	Benzie	626	627	760	949	977
Branch	486	518	682	818	841	Charlevoix	531	575	637	916	945
Cheboygan	410	476	588	790	830	Chippewa	386	480	593	719	805

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 25

MICHIGAN continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clare	431	447	588	792	816
Delta	407	486	588	774	820
Emmet	445	548	683	921	974
Gogebic	406	485	588	719	855
Gratiot	490	492	588	784	876
Houghton	418	489	588	764	876
Iosco	480	509	588	855	887
Isabella	488	527	588	846	924
Keweenaw	406	485	588	719	855
Leelanau	626	627	760	949	977
Luce	406	496	588	771	841
Manistee	467	483	634	759	851
Mason	382	449	588	770	846
Menominee	489	490	588	776	1034
Missaukee	450	540	637	837	920
Montmorency	409	474	593	781	827
Ogemaw	452	475	588	760	840
Osceola	488	489	588	805	1014
Otsego	478	559	735	881	926
Roscommon	488	490	588	764	940
Sanilac	490	528	588	828	851
Shiawassee	417	513	639	880	981
Wexford	408	540	629	832	917

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Crawford	409	476	593	782	828
Dickinson	382	465	588	709	966
Gladwin	467	493	588	787	871
Grand Traverse	641	642	805	1054	1087
Hillsdale	410	504	601	845	924
Huron	489	492	588	780	947
Iron	406	485	588	719	855
Kalkaska	502	545	605	734	757
Lake	450	492	588	770	926
Lenawee	445	558	685	874	954
Mackinac	386	480	594	716	781
Marquette	381	495	588	740	804
Mecosta	427	508	615	817	1078
Midland	475	541	667	919	982
Montcalm	452	524	599	809	834
Oceana	426	493	588	711	759
Ontonagon	406	485	588	719	855
Oscoda	415	480	588	792	838
Presque Isle	415	480	588	792	838
St. Joseph	483	538	635	784	879
Schoolcraft	406	496	588	771	841
Tuscola	421	481	610	732	875

MINNESOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth, MN-WI MSA	409	499	629	790	1006	Carlton, St. Louis
Fargo, ND-MN MSA	416	494	628	906	1048	Clay
Grand Forks, ND-MN MSA	403	506	621	787	1069	Polk
La Crosse, WI-MN MSA	412	483	635	843	1035	Houston
Mankato-North Mankato, MN MSA	504	587	682	951	1103	Blue Earth, Nicollet
Minneapolis-St. Paul-Bloomington, MN-WI MSA	628	741	899	1177	1322	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, Wright
Rochester, MN HMFA	610	651	855	1109	1158	Dodge, Olmsted
St. Cloud, MN MSA	502	553	662	936	1087	Benton, Stearns

Wabasha County, MN HMFA	418	465	596	746	1047	Wabasha						
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	
Aitkin	421	495	650	811	878	Becker	381	452	588	736	765	
Beltrami	408	482	613	843	1076	Big Stone	381	464	588	751	777	
Brown	435	495	594	711	731	Cass	382	488	588	741	763	
Chippewa	450	490	588	703	726	Clearwater	411	464	588	742	1031	
Cook	382	485	588	737	759	Cottonwood	430	470	588	750	784	

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 26

MINNESOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Crow Wing	435	509	671	861	1007	Douglas	415	494	621	900	984
Faribault	430	470	588	750	784	Fillmore	404	487	607	792	994
Freeborn	382	447	588	701	924	Goodhue	470	551	724	922	997
Grant	381	464	588	751	777	Hubbard	411	464	588	742	1031
Itasca	398	492	613	742	870	Jackson	430	470	588	750	784
Kanabec	452	530	696	869	939	Kandiyohi	473	485	602	811	836
Kittson	387	463	588	749	877	Koochiching	382	488	588	741	763
Lac qui Parle	450	490	588	703	726	Lake	382	485	588	737	759
Lake of the Woods	411	464	588	742	1031	Le Sueur	522	539	649	903	932
Lincoln	450	490	588	703	726	Lyon	448	503	619	772	794
McLeod	546	547	678	971	1002	Mahnomen	411	464	588	742	1031
Marshall	387	463	588	749	877	Martin	487	489	588	854	880
Meeker	471	522	606	792	814	Mille Lacs	487	501	660	818	908
Morrison	393	468	605	724	1062	Mower	393	461	588	730	753
Murray	430	470	588	750	784	Nobles	387	485	588	780	804
Norman	387	463	588	749	877	Otter Tail	383	456	588	717	739
Pennington	384	452	588	743	811	Pine	471	511	660	862	890
Pipestone	430	470	588	750	784	Pope	381	464	588	751	777
Red Lake	387	463	588	749	877	Redwood	450	490	588	703	726
Renville	471	491	606	792	814	Rice	572	597	786	939	1092
Rock	430	470	588	750	784	Roseau	382	453	588	733	858
Sibley	471	491	606	792	814	Steele	457	555	701	882	1150
Stevens	382	480	588	709	957	Swift	381	464	588	751	777
Todd	424	477	589	711	945	Traverse	381	464	588	751	777
Wadena	424	477	589	711	945	Waseca	421	495	650	777	813
Watonwan	430	470	588	750	784	Wilkin	381	464	588	751	777
Winona	429	507	661	914	1159	Yellow Medicine	450	490	588	703	726

MISSISSIPPI

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Gulfport-Biloxi, MS MSA	686	727	849	1106	1137	Hancock, Harrison, Stone
Hattiesburg, MS MSA	463	528	628	914	944	Forrest, Lamar, Perry
Jackson, MS HMFA	601	679	788	948	977	Copiah, Hinds, Madison, Rankin
Marshall County, MS HMFA	368	460	568	829	855	Marshall
Memphis, TN-MS-AR HMFA	648	705	783	1043	1076	DeSoto

Pascagoula, MS MSA	588	673	808	1113	1193	George, Jackson
Simpson County, MS HMFA	469	496	567	679	981	Simpson
Tate County, MS HMFA	468	542	603	845	1059	Tate
Tunica County, MS HMFA	513	617	790	949	1164	Tunica

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 27

MISSISSIPPI continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	372	515	572	686	982
Amite	431	484	539	652	741
Benton	491	549	609	731	750
Calhoun	442	455	539	722	904
Chickasaw	407	500	586	702	738
Claiborne	448	449	539	676	792
Clay	447	448	539	785	810
Covington	448	449	539	676	792
Greene	409	438	539	704	741
Holmes	455	526	586	701	734
Issaquena	455	526	586	701	734
Jasper	424	458	539	648	689
Jefferson Davis	448	449	539	676	792
Kemper	449	499	573	750	776
Lauderdale	454	509	597	820	846
Leake	424	458	539	648	689
Leflore	350	410	539	716	842
Lowndes	472	484	567	824	849
Monroe	447	476	539	674	721
Neshoba	349	471	539	641	943
Noxubee	453	470	547	749	799
Panola	349	484	539	646	744
Pike	447	485	539	709	731
Prentiss	350	408	539	646	666
Scott	448	476	539	645	695
Smith	424	458	539	648	689
Tallahatchie	364	408	539	715	749
Tishomingo	350	455	539	677	700
Walthall	431	484	539	652	741
Washington	372	485	572	742	908
Webster	442	455	539	722	904
Winston	407	500	586	702	738
Yazoo	446	473	539	644	665

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcorn	448	483	539	749	948
Attala	442	455	539	722	904
Bolivar	440	497	572	686	1006
Carroll	364	408	539	715	749
Choctaw	442	455	539	722	904
Clarke	449	499	573	750	776
Coahoma	459	475	626	748	1099
Franklin	431	484	539	652	741
Grenada	420	461	539	759	903
Humphreys	364	408	539	715	749
Itawamba	349	476	539	712	841
Jefferson	448	449	539	676	792
Jones	364	423	539	710	733
Lafayette	483	571	704	843	868
Lawrence	448	449	539	676	792
Lee	490	511	589	804	906
Lincoln	393	485	539	739	946
Marion	424	481	539	708	805
Montgomery	442	455	539	722	904
Newton	449	499	573	750	776
Oktibbeha	429	521	634	826	850
Pearl River	558	559	670	818	1153
Pontotoc	447	448	539	733	754
Quitman	440	471	555	665	834
Sharkey	455	526	586	701	734
Sunflower	391	481	539	768	792
Tippah	447	486	539	702	874
Union	366	509	564	675	817
Warren	548	602	672	803	827
Wayne	409	438	539	704	741
Wilkinson	431	484	539	652	741
Yalobusha	442	455	539	722	904

MISSOURI

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bates County, MO HMFA	366	430	562	789	815	Bates
Calloway County, MO HMFA	442	446	564	770	794	Callaway
Cape Girardeau-Jackson, MO-IL MSA	388	442	577	746	917	Bollinger, Cape Girardeau
Columbia, MO MSA	429	513	637	927	1034	Boone, Howard
Dallas County, MO HMFA	336	437	517	706	728	Dallas
Jefferson City, MO HMFA	398	438	569	806	896	Cole, Osage

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MISSOURI continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Joplin, MO MSA	374	449	572	728	749	Jasper, Newton
*Kansas City, MO-KS HMFA	605	726	834	1128	1187	Caldwell, Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
McDonald County, MO HMFA	416	417	522	743	767	McDonald
Moniteau County, MO HMFA	341	399	526	636	848	Moniteau
Polk County, MO HMFA	343	401	527	768	881	Polk
Springfield, MO HMFA	404	477	610	869	993	Christian, Greene, Webster
St. Joseph, MO-KS MSA	376	464	577	726	861	Andrew, Buchanan, DeKalb
St. Louis, MO-IL HMFA	572	621	771	993	1039	Sullivan city part of Crawford, Franklin, Jefferson, Lincoln, St. Charles, St. Louis, Warren, St. Louis city
Washington County, MO HMFA	396	462	518	682	760	Washington

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	375	435	574	754	833	Atchison	415	416	517	644	797
Audrain	428	430	517	652	829	Barry	337	425	517	674	697
Barton	336	424	517	626	687	Benton	336	400	517	717	743
Butler	428	429	517	717	766	Camden	474	481	591	861	885
Carroll	453	454	573	719	802	Carter	429	430	517	719	772
Cedar	336	400	517	717	743	Chariton	453	454	573	719	802
Clark	381	392	517	640	754	Cooper	413	434	565	754	877
Crawford	337	427	517	688	907	Dade	397	419	550	704	760
Daviess	415	416	517	644	797	Dent	387	421	517	682	867
Douglas	382	428	517	684	793	Dunklin	401	436	517	661	738
Gasconade	367	399	517	647	824	Gentry	415	416	517	644	797
Grundy	415	416	517	644	797	Harrison	415	416	517	644	797
Henry	375	435	574	689	709	Hickory	336	400	517	717	743
Holt	415	416	517	644	797	Howell	356	408	517	641	907
Iron	380	428	562	718	831	Johnson	455	485	588	786	884
Knox	381	392	517	640	754	Laclede	424	425	517	676	887
Lawrence	429	430	517	704	812	Lewis	381	392	517	640	754
Linn	381	392	517	640	754	Livingston	406	407	517	691	904
Macon	418	419	517	619	665	Madison	380	428	562	718	831
Maries	387	421	517	682	867	Marion	341	397	524	682	701
Mercer	415	416	517	644	797	Miller	432	433	517	690	719
Mississippi	362	394	517	682	787	Monroe	341	399	526	676	695

Montgomery	341	399	526	676	695	Morgan	440	441	530	720	838
New Madrid	368	423	517	690	710	Nodaway	460	461	573	685	800
Oregon	382	428	517	684	793	Ozark	382	428	517	684	793
Pemiscot	337	395	517	650	669	Perry	386	420	550	659	967
Pettis	453	454	588	733	878	Phelps	384	414	519	718	884
Pike	336	393	518	678	741	Pulaski	446	481	535	777	851
Putnam	381	392	517	640	754	Ralls	341	399	526	676	695
Randolph	350	412	539	683	703	Reynolds	429	430	517	719	772

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 29

MISSOURI continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ripley	429	430	517	719	772	St. Clair	336	400	517	717	743
Ste. Genevieve	380	428	562	718	831	St. Francois	449	452	543	758	789
Saline	345	404	531	689	808	Schuyler	381	392	517	640	754
Scotland	381	392	517	640	754	Scott	430	431	540	673	796
Shannon	382	428	517	684	793	Shelby	381	392	517	640	754
Stoddard	401	416	517	705	762	Stone	384	447	590	773	851
Sullivan	381	392	517	640	754	Taney	492	493	623	743	946
Texas	408	430	517	712	820	Vernon	361	429	519	727	749
Wayne	429	430	517	719	772	Worth	415	416	517	644	797
Wright	379	397	517	652	672						

MONTANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	420	499	645	870	1047	Carbon, Yellowstone
Great Falls, MT MSA	383	461	591	799	962	Cascade
Missoula, MT MSA	496	571	721	934	1118	Missoula

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	464	540	710	919	1113	Big Horn	439	456	588	729	777
Blaine	389	464	588	784	895	Broadwater	414	475	603	815	876
Carter	477	495	588	793	843	Chouteau	389	464	588	784	895
Custer	383	532	588	856	886	Daniels	477	495	588	793	843
Dawson	477	495	588	793	843	Deer Lodge	414	475	603	815	876
Fallon	477	495	588	793	843	Fergus	429	447	588	712	759
Flathead	418	513	645	912	1118	Gallatin	472	562	731	976	1281
Garfield	477	495	588	793	843	Glacier	389	464	588	784	895
Golden Valley	477	495	588	793	843	Granite	414	475	603	815	876
Hill	382	471	588	848	900	Jefferson	414	475	603	815	876
Judith Basin	389	464	588	784	895	Lake	492	494	599	807	870
Lewis and Clark	445	509	636	923	953	Liberty	389	464	588	784	895
Lincoln	400	491	614	850	952	McCone	477	495	588	793	843
Madison	464	540	710	919	1113	Meagher	464	540	710	919	1113
Mineral	496	561	704	903	1080	Musselshell	477	495	588	793	843
Park	441	515	677	810	1070	Petroleum	477	495	588	793	843
Phillips	477	495	588	793	843	Pondera	389	464	588	784	895

Powder River	477	495	588	793	843	Powell	414	475	603	815	876
Prairie	477	495	588	793	843	Ravalli	470	512	657	861	1018
Richland	477	495	588	793	843	Roosevelt	477	495	588	793	843
Rosebud	437	454	588	726	773	Sanders	400	491	614	850	952
Sheridan	477	495	588	793	843	Silver Bow	425	457	588	769	841
Stillwater	477	495	588	793	843	Sweet Grass	477	495	588	793	843
Teton	389	464	588	784	895	Toole	389	464	588	784	895

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 30

MONTANA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Treasure	477	495	588	793	843	Valley	477	495	588	793	843
Wheatland	477	495	588	793	843	Wibaux	477	495	588	793	843

NEBRASKA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE HMFA	456	512	652	915	1108	Lancaster
Omaha-Council Bluffs, NE-IA HMFA	540	614	766	1023	1052	Cass, Douglas, Sarpy, Washington
Saunders County, NE HMFA	560	562	675	984	1014	Saunders
Seward County, NE HMFA	357	441	551	732	929	Seward
Sioux City, IA-NE-SD MSA	429	504	661	832	857	Dakota, Dixon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	383	448	589	745	767	Antelope	458	459	551	690	713
Arthur	416	480	551	727	750	Banner	412	418	551	715	857
Blaine	460	461	553	684	797	Boone	458	459	551	690	713
Box Butte	412	418	551	721	857	Boyd	412	418	551	715	857
Brown	412	418	551	715	857	Buffalo	414	485	638	868	1009
Burt	458	459	551	690	713	Butler	457	458	551	699	732
Cedar	458	459	551	690	713	Chase	416	480	551	727	750
Cherry	412	418	551	715	857	Cheyenne	412	418	551	715	857
Clay	387	454	597	764	887	Colfax	458	459	551	690	713
Cuming	458	459	551	690	713	Custer	460	461	553	684	797
Dawes	356	420	551	660	820	Dawson	475	515	574	699	720
Deuel	412	418	551	715	857	Dodge	437	512	673	804	981
Dundy	416	480	551	727	750	Fillmore	457	458	551	699	732
Franklin	387	454	597	764	887	Frontier	416	480	551	727	750
Furnas	416	480	551	727	750	Gage	458	459	551	672	693
Garden	412	418	551	715	857	Garfield	460	461	553	684	797
Gosper	416	480	551	727	750	Grant	416	480	551	727	750
Greeley	460	461	553	684	797	Hall	466	467	585	731	946
Hamilton	460	461	553	684	797	Harlan	387	454	597	764	887
Hayes	416	480	551	727	750	Hitchcock	416	480	551	727	750
Holt	412	418	551	715	857	Hooker	416	480	551	727	750
Howard	460	461	553	684	797	Jefferson	457	458	551	699	732
Johnson	457	458	551	699	732	Kearney	387	454	597	764	887

Keith	416	480	551	727	750	Keya Paha	412	418	551	715	857
Kimball	412	418	551	715	857	Knox	458	459	551	690	713
Lincoln	402	453	576	706	889	Logan	416	480	551	727	750
Loup	460	461	553	684	797	McPherson	416	480	551	727	750
Madison	407	430	565	770	794	Merrick	460	461	553	684	797
Morrill	412	418	551	715	857	Nance	458	459	551	690	713
Nemaha	457	458	551	699	732	Nuckolls	387	454	597	764	887

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 31

NEBRASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Otoe	457	460	551	683	716	Pawnee	457	458	551	699	732
Perkins	416	480	551	727	750	Phelps	387	454	597	764	887
Pierce	458	459	551	690	713	Platte	458	460	551	804	828
Polk	457	458	551	699	732	Red Willow	381	496	551	802	827
Richardson	457	458	551	699	732	Rock	412	418	551	715	857
Saline	486	513	586	716	740	Scotts Bluff	457	458	551	702	926
Sheridan	412	418	551	715	857	Sherman	460	461	553	684	797
Sioux	412	418	551	715	857	Stanton	458	459	551	690	713
Thayer	457	458	551	699	732	Thomas	416	480	551	727	750
Thurston	458	459	551	690	713	Valley	460	461	553	684	797
Wayne	458	459	551	690	713	Webster	387	454	597	764	887
Wheeler	460	461	553	684	797	York	388	458	600	728	875

NEVADA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Carson City, NV MSA	628	756	911	1327	1601	Carson
Las Vegas-Paradise, NV MSA	767	904	1063	1478	1778	Clark
Reno-Sparks, NV MSA	693	828	1024	1488	1798	Storey, Washoe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Churchill	677	679	853	1079	1268	Douglas	709	872	1060	1476	1636
Elko	610	664	861	1073	1381	Esmeralda	531	613	782	1038	1149
Eureka	531	613	782	1038	1149	Humboldt	536	628	824	986	1015
Lander	531	613	782	1038	1149	Lincoln	531	613	782	1038	1149
Lyon	561	631	830	1209	1246	Mineral	531	613	782	1038	1149
Nye	475	660	733	1068	1100	Pershing	531	613	782	1038	1149
White Pine	531	613	782	1038	1149						

NEW HAMPSHIRE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston-Cambridge-Quincy, MA-NH HMFA	1090	1156	1357	1623	1783	Rockingham County towns of Seabrook town, South Hampton town
Hillsborough County, NH (part) HMFA	743	755	991	1444	1740	Hillsborough County towns of Antrim town, Bennington town, Deering town, Francestown town, Greenfield town, Hancock town, Hillsborough town, Lyndeborough town, New Boston town, Peterborough town, Sharon town, Temple town,

Lawrence, MA-NH HMFA	761	968	1171	1398	1442	Windsor town Rockingham County towns of Atkinson town, Chester town, Danville town, Derry town, Fremont town, Hampstead town, Kingston town, Newton town, Plaistow town, Raymond town, Salem town, Sandown town, Windham town
Manchester, NH HMFA	716	879	1051	1256	1294	Hillsborough County towns of Bedford town, Goffstown town, Manchester city, Weare town

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 32

NEW HAMPSHIRE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Nashua, NH HMFA	792	932	1165	1558	1667	Hillsborough County towns of Amherst town, Brookline town, Greenville town, Hollis town, Hudson town, Litchfield town, Mason town, Merrimack town, Milford town, Mont Vernon town, Nashua city, New Ipswich town, Pelham town, Wilton town
Portsmouth-Rochester, NH HMFA	693	818	1020	1346	1519	Rockingham County towns of Brentwood town, East Kingston town, Epping town, Exeter town, Greenland town, Hampton town, Hampton Falls town, Kensington town, New Castle town, Newfields town, Newington town, Newmarket town, North Hampton town, Portsmouth city, Rye town, Stratham town Strafford County towns of Barrington town, Dover city, Durham town, Farmington town, Lee town, Madbury town, Middleton town, Milton town, New Durham town, Rochester city, Rollinsford town, Somersworth city, Strafford town
Western Rockingham County, NH HMFA	901	902	1085	1434	1479	Rockingham County towns of Auburn town, Candia town, Deerfield town, Londonderry town, Northwood town, Nottingham town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Belknap County, NH	589	724	904	1193	1534	Alton town, Barnstead town, Belmont town, Center Harbor town, Gilford town, Gilmanton town, Laconia city, Meredith town, New Hampton town, Sanbornton town, Tilton town
Carroll County, NH	651	688	907	1234	1515	Albany town, Bartlett town, Brookfield town, Chatham town, Conway town, Eaton town, Effingham town, Freedom town, Hale's location, Hart's Location town, Jackson town, Madison town, Moultonborough town, Ossipee town, Sandwich town, Tamworth town, Tuftonboro town, Wakefield town, Wolfeboro town
Cheshire County, NH	722	771	966	1165	1418	Alstead town, Chesterfield town, Dublin town, Fitzwilliam town, Gilsum town, Harrisville town, Hinsdale town, Jaffrey town, Keene city, Marlborough town, Marlow town, Nelson town, Richmond town, Rindge town, Roxbury town, Stoddard town, Sullivan town, Surry town, Swanzey town, Troy town, Walpole town, Westmoreland town, Winchester town
Coos County, NH	423	553	650	912	1024	Atkinson and Gilmanton Academy grant, Beans grant, Beans purchase, Berlin city, Cambridge township, Carroll town, Chandlers purchase, Clarksville town, Colebrook town, Columbia town, Crawfords purchase, Cutts grant, Dalton town, Dixs grant, Dixville township, Dummer town, Errol town, Ervings location, Gorham town, Greens grant, Hadleys purchase, Jefferson town, Kilkenny township, Lancaster town, Low and Burbanks grant, Martins location, Milan town, Millsfield township,

Northumberland town, Odell township, Pinkhams grant, Pittsburg town, Randolph town, Sargents purchase, Second College grant, Shelburne town, Stark town, Stewartstown town, Stratford town, Success township,

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 33

NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Grafton County, NH	641	705	894	1202	1268	Thompson and Meserves purchase, Wentworth location, Whitefield town Alexandria town, Ashland town, Bath town, Benton town, Bethlehem town, Bridgewater town, Bristol town, Campton town, Canaan town, Dorchester town, Easton town, Ellsworth town, Enfield town, Franconia town, Grafton town, Groton town, Hanover town, Haverhill town, Hebron town, Holderness town, Landaff town, Lebanon city, Lincoln town, Lisbon town, Littleton town, Livermore town, Lyman town, Lyme town, Monroe town, Orange town, Orford town, Piermont town, Plymouth town, Rumney town, Sugar Hill town, Thornton town, Warren town, Waterville Valley town, Wentworth town, Woodstock town
Merrimack County, NH	643	761	993	1226	1572	Allenstown town, Andover town, Boscawen town, Bow town, Bradford town, Canterbury town, Chichester town, Concord city, Danbury town, Dunbarton town, Epsom town, Franklin city, Henniker town, Hill town, Hooksett town, Hopkinton town, Loudon town, Newbury town, New London town, Northfield town, Pembroke town, Pittsfield town, Salisbury town, Sutton town, Warner town, Webster town, Wilmot town
Sullivan County, NH	544	659	840	1138	1230	Acworth town, Charlestown town, Claremont city, Cornish town, Croydon town, Goshen town, Grantham town, Langdon town, Lempster town, Newport town, Plainfield town, Springfield town, Sunapee town, Unity town, Washington town

NEW JERSEY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic City-Hammonton, NJ MSA	838	923	1101	1396	1566	Atlantic
Bergen-Passaic, NJ HMFA	1099	1230	1379	1703	1961	Bergen, Passaic
Jersey City, NJ HMFA	995	1052	1227	1487	1601	Hudson
Middlesex-Somerset-Hunterdon, NJ HMFA	1155	1198	1409	1768	2085	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ HMFA	901	1041	1271	1656	1797	Monmouth, Ocean
Newark, NJ HMFA	916	1119	1279	1531	1693	Essex, Morris, Sussex, Union
Ocean City, NJ MSA	741	756	951	1246	1283	Cape May
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	803	915	1095	1339	1615	Burlington, Camden, Gloucester, Salem
Trenton-Ewing, NJ MSA	873	1005	1208	1444	1620	Mercer
Vineland-Millville-Bridgeton, NJ MSA	802	805	1014	1232	1298	Cumberland
Warren County, NJ HMFA	796	891	1042	1247	1284	Warren

NEW MEXICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Albuquerque, NM MSA	526	619	782	1139	1365	Bernalillo, Sandoval, Torrance, Valencia
Farmington, NM MSA	496	525	632	836	942	San Juan
Las Cruces, NM MSA	479	517	576	795	882	Dona Ana

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NEW MEXICO continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Santa Fe, NM MSA	641	795	967	1266	1513	Santa Fe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Catron	388	437	523	762	785	Chaves	418	420	536	701	723
Cibola	436	470	523	760	825	Colfax	463	494	556	702	730
Curry	435	451	523	708	920	De Baca	435	448	523	706	859
Eddy	349	445	523	702	852	Grant	419	486	552	778	800
Guadalupe	513	520	619	777	811	Harding	435	448	523	706	859
Hidalgo	388	437	523	762	785	Lea	433	471	523	688	724
Lincoln	409	515	627	789	1102	Los Alamos	651	759	996	1195	1231
Luna	434	471	523	667	801	McKinley	413	485	638	762	988
Mora	513	520	619	777	811	Otero	400	473	523	765	920
Quay	435	448	523	706	859	Rio Arriba	467	475	562	727	807
Roosevelt	434	445	523	725	896	San Miguel	437	472	581	772	896
Sierra	339	422	523	764	919	Socorro	435	436	523	627	888
Taos	622	675	748	895	923	Union	435	448	523	706	859

NEW YORK

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	690	716	874	1046	1143	Albany, Rensselaer, Saratoga, Schenectady, Schoharie
Binghamton, NY MSA	602	604	723	944	1107	Broome, Tioga
Buffalo-Niagara Falls, NY MSA	605	606	728	901	994	Erie, Niagara
Elmira, NY MSA	659	661	793	1019	1062	Chemung
Glens Falls, NY MSA	626	662	833	1051	1184	Warren, Washington
Ithaca, NY MSA	795	818	958	1159	1202	Tompkins
Kingston, NY MSA	771	836	1001	1268	1576	Ulster
Nassau-Suffolk, NY HMFA	1167	1348	1592	2113	2302	Nassau, Suffolk
New York, NY HMFA	1129	1222	1359	1672	1880	Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland
Poughkeepsie-Newburgh-Middletown, NY MSA	784	922	1128	1383	1473	Dutchess, Orange
Rochester, NY MSA	594	657	803	964	1021	Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	628	630	759	972	1052	Madison, Onondaga, Oswego
Utica-Rome, NY MSA	622	623	750	920	1044	Herkimer, Oneida
Westchester County, NY Statutory Exception Area	1169	1394	1621	1955	2410	Westchester

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR

Allegany	573	576	690	860	1056	Cattaraugus	582	583	702	922	1059
Cayuga	624	626	750	998	1159	Chautauqua	589	592	710	916	1000
Chenango	586	590	707	891	1241	Clinton	662	665	797	1012	1316
Columbia	722	737	869	1050	1119	Cortland	630	631	771	980	1203
Delaware	593	596	715	884	1163	Essex	623	625	750	998	1085
Franklin	571	573	684	878	972	Fulton	489	597	755	904	960
Genesee	682	684	822	1019	1153	Greene	625	675	822	1069	1164
Hamilton	629	631	757	943	1093	Jefferson	650	651	783	1009	1060

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NEW YORK continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lewis	580	583	699	874	976	Montgomery	580	623	699	884	958
Otsego	614	629	739	982	1021	St. Lawrence	580	582	700	886	968
Schuyler	632	636	762	1016	1049	Seneca	670	671	805	1059	1340
Steuben	618	619	744	955	1054	Sullivan	638	707	907	1086	1272
Wyoming	599	616	723	1053	1149	Yates	616	624	741	960	988

NORTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anson County, NC HMFA	489	526	588	827	873	Anson
Asheville, NC HMFA	521	608	694	930	1219	Buncombe, Henderson, Madison
Burlington, NC MSA	635	657	766	1040	1072	Alamance
Charlotte-Gastonia-Concord, NC-SC HMFA	670	726	806	1016	1182	Cabarrus, Gaston, Mecklenburg, Union
Durham-Chapel Hill, NC HMFA	542	742	832	1087	1172	Chatham, Durham, Orange
Fayetteville, NC HMFA	580	627	700	994	1176	Cumberland
Goldsboro, NC MSA	448	531	622	779	1041	Wayne
Greene County, NC HMFA	489	490	588	831	858	Greene
Greensboro-High Point, NC HMFA	553	631	703	891	953	Guilford, Randolph
Greenville, NC HMFA	517	536	661	916	946	Pitt
Haywood County, NC HMFA	522	524	653	846	1094	Haywood
Hickory-Lenoir-Morganton, NC MSA	524	551	633	812	946	Alexander, Burke, Caldwell, Catawba
Hoke County, NC HMFA	537	583	646	884	1078	Hoke
Jacksonville, NC MSA	530	568	638	896	1051	Onslow
Pender County, NC HMFA	531	533	641	843	867	Pender
Person County, NC HMFA	519	521	628	750	860	Person
Raleigh-Cary, NC MSA	687	770	856	1076	1115	Franklin, Johnston, Wake
Rockingham County, NC HMFA	481	509	603	749	772	Rockingham
Rocky Mount, NC MSA	383	462	588	730	752	Edgecombe, Nash
Virginia Beach-Norfolk-Newport News, VA-NC MSA	774	807	934	1277	1539	Currituck
Wilmington, NC HMFA	610	673	813	1139	1172	Brunswick, New Hanover
Winston-Salem, NC MSA	507	577	669	912	1072	Davie, Forsyth, Stokes, Yadkin

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	437	513	588	771	795	Ashe	487	489	588	777	919
Avery	458	565	668	799	943	Beaufort	383	499	588	708	728
Bertie	403	511	588	704	726	Bladen	382	464	588	857	926
Camden	440	573	677	914	937	Carteret	543	544	654	952	1147
Caswell	499	500	611	747	780	Cherokee	382	495	588	854	1030

Chowan	440	573	677	914	937	Clay	488	490	588	771	898
Cleveland	584	586	704	927	1041	Columbus	412	530	588	704	725
Craven	498	568	651	878	1096	Dare	673	674	827	1093	1125
Davidson	511	512	617	804	919	Duplin	488	528	588	744	767
Gates	440	573	677	914	937	Graham	488	490	588	771	898
Granville	549	550	661	825	981	Halifax	383	531	588	748	858
Harnett	507	551	611	825	1073	Hertford	383	527	588	771	793

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NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hyde	440	573	677	914	937	Iredell	599	604	722	957	1248
Jackson	516	534	635	834	860	Jones	502	543	649	898	1142
Lee	435	595	672	826	1179	Lenoir	447	449	590	705	1012
Lincoln	415	574	638	771	792	McDowell	428	511	660	815	838
Macon	451	490	632	768	1109	Martin	489	518	588	761	783
Mitchell	458	565	668	799	943	Montgomery	487	529	588	733	1033
Moore	547	548	690	992	1210	Northampton	384	518	588	748	769
Pamlico	393	500	588	740	761	Pasquotank	436	563	669	971	1000
Perquimans	440	573	677	914	937	Polk	551	553	678	848	874
Richmond	423	530	588	739	762	Robeson	419	507	588	706	786
Rowan	565	612	679	969	1035	Rutherford	539	542	662	792	816
Sampson	489	499	588	817	1035	Scotland	492	493	625	759	946
Stanly	463	500	611	832	906	Surry	439	529	588	786	808
Swain	488	490	588	771	898	Transylvania	502	698	773	976	1029
Tyrrell	440	573	677	914	937	Vance	492	493	593	710	732
Warren	505	506	607	742	763	Washington	415	560	638	766	786
Watauga	495	604	760	924	1193	Wilkes	430	493	588	754	786
Wilson	561	562	682	816	865	Yancey	487	489	588	702	723

NORTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	434	454	565	818	841	Burleigh, Morton
Fargo, ND-MN MSA	416	494	628	906	1048	Cass
Grand Forks, ND-MN MSA	403	506	621	787	1069	Grand Forks

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	363	422	518	686	717	Barnes	429	432	518	725	910
Benson	424	426	518	714	901	Billings	363	422	518	686	717
Bottineau	395	433	539	759	827	Bowman	363	422	518	686	717
Burke	395	433	539	759	827	Cavalier	424	426	518	714	901
Dickey	424	426	518	714	901	Divide	363	422	518	686	717
Dunn	363	422	518	686	717	Eddy	424	426	518	714	901
Emmons	395	433	539	759	827	Foster	424	426	518	714	901
Golden Valley	363	422	518	686	717	Grant	363	422	518	686	717
Griggs	424	426	518	714	901	Hettinger	363	422	518	686	717

Kidder	395	433	539	759	827	LaMoure	424	426	518	714	901		
Logan	395	433	539	759	827	McHenry	395	433	539	759	827		
McIntosh	395	433	539	759	827	McKenzie	363	422	518	686	717		
McLean	395	433	539	759	827	Mercer	363	422	518	686	717		
Mountrail	395	433	539	759	827	Nelson	401	498	594	804	892		
Oliver	363	422	518	686	717	Pembina	401	498	594	804	892		

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NORTH DAKOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pierce	395	433	539	759	827	Ramsey	384	394	519	647	818
Ransom	424	426	518	714	901	Renville	395	433	539	759	827
Richland	350	421	533	692	821	Rolette	395	433	539	759	827
Sargent	424	426	518	714	901	Sheridan	395	433	539	759	827
Sioux	363	422	518	686	717	Slope	363	422	518	686	717
Stark	368	448	518	754	911	Steele	401	498	594	804	892
Stutsman	431	433	518	717	910	Towner	424	426	518	714	901
Traill	401	498	594	804	892	Walsh	401	498	594	804	892
Ward	339	421	518	715	849	Wells	424	426	518	714	901
Williams	337	411	518	682	723						

OHIO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH MSA	509	595	762	969	999	Portage, Summit
Brown County, OH HMFA	433	454	599	773	931	Brown
Canton-Massillon, OH MSA	460	510	644	813	862	Carroll, Stark
Cincinnati-Middleton, OH-KY-IN HMFA	473	560	726	972	1009	Butler, Clermont, Hamilton, Warren
Cleveland-Elyria-Mentor, OH MSA	526	610	735	942	1001	Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH HMFA	510	593	750	944	1025	Delaware, Fairfield, Franklin, Licking, Madison, Morrow, Pickaway
Dayton, OH HMFA	495	565	696	937	1118	Greene, Miami, Montgomery
Huntington-Ashland, WV-KY-OH MSA	414	490	588	725	749	Lawrence
Lima, OH MSA	480	486	602	742	762	Allen
Mansfield, OH MSA	395	481	607	788	819	Richland
Parkersburg-Marietta-Vienna, WV-OH MSA	429	459	588	781	843	Washington
Preble County, OH HMFA	519	535	649	840	871	Preble
Sandusky, OH MSA	433	521	666	869	914	Erie
Springfield, OH MSA	484	538	648	838	1076	Clark
Toledo, OH MSA	482	537	664	857	934	Fulton, Lucas, Ottawa, Wood
Union County, OH HMFA	631	632	759	909	937	Union
Weirton-Steubenville, WV-OH MSA	389	477	588	734	797	Jefferson
Wheeling, WV-OH MSA	382	460	588	739	863	Belmont
Youngstown-Warren-Boardman, OH HMFA	439	492	595	749	808	Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	478	496	588	779	823	Ashland	415	494	640	826	849
Ashtabula	428	502	640	813	948	Athens	488	530	588	756	787

Auglaize	430	462	605	787	808	Champaign	409	500	630	777	835
Clinton	455	562	623	908	1066	Columbiana	469	495	598	740	899
Coshocton	409	493	588	760	867	Crawford	486	493	588	757	829
Darke	382	488	588	783	806	Defiance	443	508	616	777	946
Fayette	471	541	661	796	1062	Gallia	399	530	588	748	982
Guernsey	413	510	588	777	799	Hancock	439	513	665	904	960
Hardin	488	530	588	737	965	Harrison	392	468	588	753	774
Henry	400	491	594	764	788	Highland	488	489	588	792	818

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OHIO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hocking	381	530	588	839	863	Holmes	489	490	588	776	823
Huron	430	520	636	882	971	Jackson	496	498	597	716	738
Knox	517	521	625	800	917	Logan	533	539	641	806	833
Marion	424	534	653	828	1008	Meigs	489	530	588	806	830
Mercer	384	498	588	792	816	Monroe	489	490	588	722	807
Morgan	489	490	588	722	807	Muskingum	476	489	588	753	950
Noble	489	490	588	722	807	Paulding	432	473	588	767	791
Perry	488	489	588	736	757	Pike	382	492	588	704	733
Putnam	411	455	599	743	775	Ross	445	504	588	727	834
Sandusky	521	533	627	779	851	Scioto	470	492	588	772	923
Seneca	434	455	588	739	761	Shelby	488	499	649	810	897
Tuscarawas	393	459	605	766	789	Van Wert	382	457	588	716	739
Vinton	429	530	588	805	1002	Wayne	436	542	668	798	873
Williams	485	492	610	808	892	Wyandot	489	490	588	806	830

OKLAHOMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fort Smith, AR-OK HMFA	394	447	557	742	808	Sequoyah
Grady County, OK HMFA	402	448	557	754	866	Grady
Lawton, OK MSA	451	487	612	894	1075	Comanche
Le Flore County, OK HMFA	377	439	557	689	844	Le Flore
Lincoln County, OK HMFA	461	462	557	734	757	Lincoln
Oklahoma City, OK HMFA	499	545	662	894	958	Canadian, Cleveland, Logan, McClain, Oklahoma
Okmulgee County, OK HMFA	376	423	557	756	803	Okmulgee
Pawnee County, OK HMFA	465	479	557	722	743	Pawnee
Tulsa, OK HMFA	535	582	711	939	970	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	465	466	557	665	685	Alfalfa	464	480	557	756	780
Atoka	403	452	557	724	845	Beaver	464	480	557	756	780
Beckham	463	501	557	729	977	Blaine	464	480	557	756	780
Bryan	452	454	557	720	858	Caddo	383	424	557	667	833
Carter	492	524	593	738	790	Cherokee	450	485	561	705	810
Choctaw	461	499	557	790	813	Cimarron	464	480	557	756	780
Coal	403	452	557	724	845	Cotton	423	458	577	835	977
Craig	376	439	578	692	1016	Custer	430	431	557	797	820

Delaware	400	450	557	748	771	Dewey	464	480	557	756	780
Ellis	464	480	557	756	780	Garfield	457	482	579	802	825
Garvin	360	421	557	732	892	Grant	464	480	557	756	780
Greer	432	448	557	749	784	Harmon	432	448	557	749	784
Harper	464	480	557	756	780	Haskell	362	435	557	701	769
Hughes	450	513	612	780	802	Jackson	383	497	558	783	807
Jefferson	423	458	577	835	977	Johnston	403	452	557	724	845

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OKLAHOMA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Kay	378	469	582	804	831	Kingfisher	464	480	557	783	805
Kiowa	432	448	557	749	784	Latimer	362	435	557	701	769
Love	403	452	557	724	845	McCurtain	361	422	557	723	746
McIntosh	412	466	558	698	792	Major	464	480	557	756	780
Marshall	403	452	557	724	845	Mayes	361	502	557	697	797
Murray	464	465	557	749	959	Muskogee	421	496	588	744	821
Noble	406	472	568	790	813	Nowata	424	449	557	742	838
Okfuskee	450	513	612	780	802	Ottawa	465	466	557	759	783
Payne	493	565	692	980	1009	Pittsburg	380	444	585	737	898
Pontotoc	392	437	557	759	783	Pottawatomie	484	550	612	775	900
Pushmataha	362	435	557	701	769	Roger Mills	432	448	557	749	784
Seminole	361	446	557	669	689	Stephens	365	423	557	761	785
Texas	433	519	585	740	885	Tillman	423	458	577	835	977
Washington	460	461	562	787	866	Washita	432	448	557	749	784
Woods	413	442	557	810	835	Woodward	387	452	557	695	716

OREGON

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bend, OR MSA	554	644	768	1119	1154	Deschutes
Corvallis, OR MSA	520	631	786	1142	1313	Benton
Eugene-Springfield, OR MSA	499	605	766	1072	1193	Lane
Medford, OR MSA	513	610	766	1115	1147	Jackson
Portland-Vancouver-Beaverton, OR-WA MSA	626	726	839	1222	1467	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR MSA	508	564	675	981	1183	Marion, Polk

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baker	406	473	624	908	935	Clatsop	459	570	705	1020	1052
Coos	444	538	682	905	1042	Crook	437	562	672	909	1064
Curry	501	576	680	993	1199	Douglas	433	516	666	903	1118
Gilliam	470	551	665	901	1054	Grant	470	551	665	901	1054
Harney	420	489	615	850	904	Hood River	472	584	727	1035	1067
Jefferson	522	556	630	916	1031	Josephine	505	579	700	995	1105
Klamath	418	491	625	874	971	Lake	420	489	615	850	904
Lincoln	521	595	759	1052	1188	Linn	498	604	753	1038	1285
Malheur	445	507	618	894	920	Morrow	470	551	665	901	1054

Sherman	470	551	665	901	1054	Tillamook	483	577	742	1037	1068
Umatilla	436	497	636	893	996	Union	417	485	640	934	961
Wallowa	413	481	635	909	977	Wasco	484	542	675	959	1187
Wheeler	470	551	665	901	1054						

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PENNSYLVANIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA HMFA	596	726	859	1112	1176	Carbon, Lehigh, Northampton
Altoona, PA MSA	465	509	616	807	833	Blair
Armstrong County, PA HMFA	482	523	579	741	972	Armstrong
Erie, PA MSA	459	518	669	800	910	Erie
Harrisburg-Carlisle, PA MSA	570	651	820	1035	1073	Cumberland, Dauphin, Perry
Johnstown, PA MSA	463	471	579	729	835	Cambria
Lancaster, PA MSA	531	630	776	985	1034	Lancaster
Lebanon, PA MSA	443	529	682	925	954	Lebanon
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	803	915	1095	1339	1615	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pike County, PA HMFA	812	844	978	1324	1622	Pike
Pittsburgh, PA HMFA	556	610	730	907	980	Allegheny, Beaver, Butler, Fayette, Washington, Westmoreland
Reading, PA MSA	550	614	757	1012	1044	Berks
Scranton--Wilkes-Barre, PA MSA	446	532	639	810	856	Lackawanna, Luzerne, Wyoming
Sharon, PA HMFA	466	488	595	729	801	Mercer
State College, PA MSA	637	710	836	999	1030	Centre
Williamsport, PA MSA	450	516	622	817	840	Lycoming
York-Hanover, PA MSA	506	581	737	890	923	York

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	543	594	710	956	1060	Bedford	441	501	579	692	919
Bradford	377	505	579	724	887	Cameron	484	502	581	770	829
Clarion	481	523	579	739	772	Clearfield	441	487	579	830	979
Clinton	522	524	631	755	776	Columbia	467	512	624	798	946
Crawford	461	511	579	768	878	Elk	482	504	579	750	907
Forest	482	512	579	750	772	Franklin	450	512	646	850	1042
Fulton	386	492	579	714	835	Greene	481	512	579	692	712
Huntingdon	376	466	579	748	770	Indiana	515	536	620	740	810
Jefferson	394	487	579	767	790	Juniata	446	483	581	790	815
Lawrence	421	549	646	773	907	McKean	486	512	584	783	842
Mifflin	408	472	579	752	941	Monroe	593	730	913	1166	1305
Montour	518	594	684	818	844	Northumberland	398	519	579	717	743
Potter	481	522	579	767	789	Schuylkill	386	503	579	723	795
Snyder	402	528	621	777	838	Somerset	481	481	579	712	753
Sullivan	382	512	587	736	876	Susquehanna	470	512	600	721	795
Tioga	496	545	606	796	851	Union	556	579	669	879	946
Venango	445	486	579	731	830	Warren	376	483	579	752	796
Wayne	562	565	710	887	1000						

RHODE ISLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Newport-Middleton-Portsmouth, RI HMFA	812	990	1224	1662	2148	Newport County towns of Middletown town, Newport city, Portsmouth town
Providence-Fall River, RI-MA HMFA	751	836	963	1151	1419	Bristol County towns of Barrington town, Bristol town, Warren town

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RHODE ISLAND continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Kent County towns of Coventry town, East Greenwich town, Warwick city, West Greenwich town, West Warwick town Newport County towns of Jamestown town, Little Compton town, Tiverton town Providence County towns of Burrillville town, Central Falls city, Cranston city, Cumberland town, East Providence city, Foster town, Glocester town, Johnston town, Lincoln town, North Providence town, North Smithfield town, Pawtucket city, Providence city, Scituate town, Smithfield town, Woonsocket city Washington County towns of Charlestown town, Exeter town, Narragansett town, North Kingstown town, Richmond town, South Kingstown town
Westerly-Hopkinton-New Shoreham, RI HMFA.....	688	865	1012	1209	1579	Washington County towns of Hopkinton town, New Shoreham town, Westerly town

SOUTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anderson, SC MSA.....	417	541	615	779	801	Anderson
Augusta-Richmond County, GA-SC MSA.....	533	578	649	869	914	Aiken, Edgefield
Charleston-North Charleston-Summerville, SC MSA...	689	763	863	1124	1309	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Concord, NC-SC HMFA.....	670	726	806	1016	1182	York
Columbia, SC HMFA.....	632	688	767	947	977	Calhoun, Fairfield, Lexington, Richland, Saluda
Darlington County, SC HMFA.....	360	461	554	665	717	Darlington
Florence, SC HMFA.....	431	485	561	673	845	Florence
Greenville-Mauldin-Easley, SC MSA.....	546	592	659	870	894	Greenville, Pickens
Kershaw County, SC HMFA.....	405	510	627	788	915	Kershaw
Laurens County, SC HMFA.....	493	535	593	750	875	Laurens
Myrtle Beach-North Myrtle Beach-Conway, SC MSA....	616	677	791	945	1145	Horry
Spartanburg, SC MSA.....	534	552	645	811	835	Spartanburg
Sumter, SC MSA.....	478	519	575	739	782	Sumter

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Abbeville.....	359	499	554	673	693	Allendale.....	461	499	554	688	889
Bamberg.....	460	461	554	739	761	Barnwell.....	459	483	554	667	863
Beaufort.....	652	784	887	1081	1149	Cherokee.....	454	455	555	664	705
Chester.....	476	477	572	684	726	Chesterfield.....	392	488	554	662	972
Clarendon.....	483	484	581	696	793	Colleton.....	360	448	554	783	804
Dillon.....	460	468	554	693	761	Georgetown.....	542	544	655	848	1024
Greenwood.....	488	510	586	850	877	Hampton.....	460	469	554	683	775

Jasper	509	552	615	734	832	Lancaster	375	473	554	762	839
Lee	378	464	554	681	853	McCormick	466	489	561	776	801
Marion	458	459	554	673	691	Marlboro	460	461	554	699	828
Newberry	458	499	554	704	867	Oconee	364	426	559	693	984
Orangeburg	460	499	554	688	853	Union	460	461	554	765	859

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 42

SOUTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Williamsburg	483	484	581	696	793

SOUTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Meade County, SD HMFA	353	422	546	794	886	Meade
Rapid City, SD HMFA	498	581	732	969	996	Pennington
Sioux City, IA-NE-SD MSA	429	504	661	832	857	Union
Sioux Falls, SD MSA	508	534	682	891	985	Lincoln, McCook, Minnehaha, Turner

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aurora	350	407	536	687	733	Beadle	446	447	536	780	884
Bennett	404	420	536	717	798	Bon Homme	350	407	536	687	733
Brookings	349	437	538	759	945	Brown	392	420	553	702	834
Brule	350	407	536	687	733	Buffalo	350	407	536	687	733
Butte	404	420	536	717	798	Campbell	390	408	536	708	841
Charles Mix	350	407	536	687	733	Clark	359	417	536	725	855
Clay	408	434	570	786	1000	Codington	395	461	607	784	896
Corson	404	420	536	717	798	Custer	404	420	536	717	798
Davison	368	432	567	727	782	Day	390	408	536	708	841
Deuel	359	417	536	725	855	Dewey	404	420	536	717	798
Douglas	350	407	536	687	733	Edmunds	390	408	536	708	841
Fall River	396	413	543	704	784	Faulk	390	408	536	708	841
Grant	359	417	536	725	855	Gregory	350	407	536	687	733
Haakon	404	420	536	717	798	Hamlin	359	417	536	725	855
Hand	390	408	536	708	841	Hanson	350	407	536	687	733
Harding	404	420	536	717	798	Hughes	357	447	552	692	714
Hutchinson	350	407	536	687	733	Hyde	350	407	536	687	733
Jackson	404	420	536	717	798	Jerauld	390	408	536	708	841
Jones	404	420	536	717	798	Kingsbury	359	417	536	725	855
Lake	359	417	536	725	855	Lawrence	379	460	566	788	842
Lyman	350	407	536	687	733	McPherson	390	408	536	708	841
Marshall	390	408	536	708	841	Mellette	404	420	536	717	798
Miner	359	417	536	725	855	Moody	359	417	536	725	855
Perkins	404	420	536	717	798	Potter	404	420	536	717	798
Roberts	390	408	536	708	841	Sanborn	350	407	536	687	733

Shannon	404	420	536	717	798	Spink	390	408	536	708	841
Stanley	350	407	536	687	733	Sully	350	407	536	687	733
Todd	404	420	536	717	798	Tripp	350	407	536	687	733
Walworth	390	408	536	708	841	Yankton	376	446	579	759	780
Ziebach	404	420	536	717	798						

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TENNESSEE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	537	568	669	824	968	Hamilton, Marion, Sequatchie
Clarksville, TN-KY HMFA	550	572	664	960	988	Montgomery
Cleveland, TN MSA	471	481	620	778	989	Bradley, Polk
Hickman County, TN HMFA	366	509	564	822	848	Hickman
Jackson, TN MSA	508	554	700	937	963	Chester, Madison
Johnson City, TN MSA	392	475	588	730	910	Carter, Unicoi, Washington
Kingsport-Bristol-Bristol, TN-VA MSA	428	460	571	765	915	Hawkins, Sullivan
Knoxville, TN MSA	529	608	732	981	1012	Anderson, Blount, Knox, Loudon, Union
Macon County, TN HMFA	353	430	543	647	718	Macon
Memphis, TN-MS-AR HMFA	648	705	783	1043	1076	Fayette, Shelby, Tipton
Morristown, TN MSA	461	463	556	729	822	Grainger, Hamblen, Jefferson
Nashville-Davidson--Murfreesboro--Franklin, TN MSA	615	702	807	1047	1077	Cannon, Cheatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson, Wilson
Smith County, TN HMFA	470	471	564	752	777	Smith
Stewart County, TN HMFA	360	469	554	756	779	Stewart

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bedford	441	540	679	850	875	Benton	425	426	539	666	731
Bledsoe	353	442	539	708	729	Campbell	447	449	539	694	826
Carroll	446	447	539	665	743	Claiborne	350	447	539	721	809
Clay	436	437	539	700	720	Cocke	351	434	539	646	880
Coffee	484	485	582	789	862	Crockett	448	486	539	703	725
Cumberland	446	447	539	764	945	Decatur	403	443	539	693	789
DeKalb	447	449	539	778	804	Dyer	365	429	562	749	818
Fentress	436	437	539	700	720	Franklin	371	445	572	832	1002
Gibson	441	452	539	677	749	Giles	381	447	590	710	730
Greene	350	441	539	730	750	Grundy	353	442	539	708	729
Hancock	447	448	539	690	830	Hardeman	390	483	539	730	946
Hardin	395	440	539	715	736	Haywood	454	470	615	735	807
Henderson	378	501	585	697	719	Henry	353	413	544	651	792
Houston	425	426	539	666	731	Humphreys	448	485	539	768	793
Jackson	436	437	539	700	720	Johnson	349	434	539	723	758
Lake	400	448	539	700	741	Lauderdale	474	475	572	695	718
Lawrence	371	416	539	667	761	Lewis	362	421	543	692	712
Lincoln	447	448	539	659	678	McMinn	476	478	574	687	915
McNairy	350	412	539	778	801	Marshall	436	463	607	730	916
Maury	465	581	716	911	939	Meigs	353	442	539	708	729

Monroe	427	428	543	649	829	Moore	474	475	568	750	774
Morgan	445	446	539	674	786	Obion	370	446	539	711	749
Overton	351	442	539	659	678	Perry	362	421	543	692	712
Pickett	436	437	539	700	720	Putnam	450	451	562	809	868
Rhea	349	431	539	716	736	Roane	474	489	568	759	780
Scott	447	456	539	714	949	Sevier	541	586	661	795	1161
Van Buren	436	437	539	700	720	Warren	437	442	569	762	907

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 44

TENNESSEE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wayne	362	421	543	692	712
White	404	410	539	762	783
Weakley	391	481	539	789	950

TEXAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	486	511	645	840	1062	Callahan, Jones, Taylor
Amarillo, TX MSA	496	537	671	925	1036	Armstrong, Carson, Potter, Randall
Aransas County, TX HMFA	443	550	655	955	984	Aransas
Atascosa County, TX HMFA	383	446	589	744	766	Atascosa
Austin County, TX HMFA	571	573	689	914	943	Austin
Austin-Round Rock, TX MSA	688	783	954	1284	1462	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	516	579	692	858	889	Hardin, Jefferson, Orange
Brazoria County, TX HMFA	561	625	718	990	1063	Brazoria
Brownsville-Harlingen, TX MSA	454	524	600	742	838	Cameron
Calhoun County, TX HMFA	420	497	637	803	1075	Calhoun
College Station-Bryan, TX MSA	605	685	836	1059	1092	Brazos, Burleson, Robertson
Corpus Christi, TX HMFA	640	658	816	1120	1221	Nueces, San Patricio
Dallas, TX HMFA	669	740	894	1164	1377	Collin, Dallas, Delta, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	468	502	598	858	1017	El Paso
Fort Worth-Arlington, TX HMFA	666	708	861	1150	1274	Johnson, Parker, Tarrant
*Houston-Baytown-Sugar Land, TX HMFA	661	735	892	1189	1495	Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, San Jacinto, Waller
Kendall County, TX HMFA	743	744	895	1303	1572	Kendall
Killeen-Temple-Fort Hood, TX HMFA	529	585	743	1081	1302	Bell, Coryell
Lampasas County, TX HMFA	382	487	588	858	1005	Lampasas
Laredo, TX MSA	510	558	668	873	1144	Webb
Longview, TX HMFA	542	570	654	895	921	Gregg, Upshur
Lubbock, TX MSA	469	572	722	1022	1055	Crosby, Lubbock
McAllen-Edinburg-Mission, TX MSA	505	555	655	785	903	Hidalgo
Medina County, TX HMFA	522	580	682	816	992	Medina
Midland, TX MSA	583	632	831	1211	1434	Midland
Odessa, TX MSA	530	562	736	1061	1232	Ector
Rusk County, TX HMFA	505	506	607	727	748	Rusk
San Angelo, TX MSA	460	531	676	967	1057	Irion, Tom Green
San Antonio, TX HMFA	579	645	796	1027	1247	Bandera, Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	596	628	738	970	1122	Grayson
Texarkana, TX-Texarkana, AR MSA	501	506	623	760	827	Bowie
Tyler, TX MSA	541	636	716	981	1072	Smith

Victoria, TX HMFA				485	559	716	891	1055	Goliad, Victoria			
Waco, TX MSA				591	592	736	921	952	McLennan			
Wichita Falls, TX MSA				533	560	667	936	964	Archer, Clay, Wichita			
Wise County, TX HMFA				548	549	660	806	896	Wise			
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR		NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	527	552	636	837	1098		Andrews	487	501	588	787	879
Angelina	504	574	642	831	857		Bailey	453	505	588	765	970
Baylor	399	473	588	749	889		Bee	492	493	591	794	889

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TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Blanco	469	504	637	836	958
Bosque	488	489	588	714	856
Briscoe	479	482	588	783	808
Brown	470	511	644	819	940
Camp	494	495	608	830	856
Castro	479	482	588	783	808
Childress	479	482	588	783	808
Coke	461	531	675	971	1058
Collingsworth	479	482	588	783	808
Comanche	478	513	607	773	843
Cooke	543	545	687	848	873
Crane	487	516	588	763	906
Culberson	487	516	588	763	906
Dawson	486	487	588	759	783
DeWitt	435	451	588	768	831
Dimmit	482	484	588	800	949
Duval	406	510	588	783	834
Edwards	482	484	588	800	949
Falls	389	530	597	762	790
Fayette	488	553	670	832	857
Floyd	453	505	588	765	970
Franklin	443	508	614	752	904
Frio	474	582	708	896	1066
Garza	453	505	588	765	970
Glasscock	486	487	588	759	783
Gray	455	456	588	738	761
Hale	395	500	588	720	804
Hamilton	469	504	637	836	958
Hardeman	399	473	588	749	889
Hartley	479	482	588	783	808
Hemphill	479	482	588	783	808
Hill	383	530	588	833	908
Hood	588	637	709	937	1244
Houston	568	610	684	819	886
Hudspeth	487	516	588	763	906

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Borden	486	487	588	759	783
Brewster	428	447	588	703	762
Brooks	488	524	588	840	936
Burnet	480	562	738	928	955
Cass	383	529	588	807	951
Cherokee	478	524	588	786	818
Cochran	453	505	588	765	970
Coleman	469	504	637	836	958
Colorado	470	519	588	777	799
Concho	486	487	588	759	783
Cottle	399	473	588	749	889
Crockett	486	487	588	759	783
Dallam	440	483	637	761	781
Deaf Smith	382	487	588	854	973
Dickens	453	505	588	765	970
Donley	479	482	588	783	808
Eastland	478	513	607	773	843
Erath	477	517	645	787	811
Fannin	512	516	615	767	790
Fisher	454	455	588	841	913
Foard	399	473	588	749	889
Freestone	389	530	597	780	804
Gaines	488	520	588	763	914
Gillespie	499	583	766	1061	1092
Gonzales	403	460	588	855	880
Grimes	524	575	640	833	858
Hall	479	482	588	783	808
Hansford	479	482	588	783	808
Harrison	473	477	627	810	834
Haskell	454	455	588	841	913
Henderson	485	502	660	865	892
Hockley	458	487	588	816	841
Hopkins	441	509	621	787	1090
Howard	487	492	588	826	848
Hutchinson	493	495	593	710	882

Jack	399	473	588	749	889	Jackson	383	495	588	717	1034
Jasper	489	490	588	727	841	Jeff Davis	487	516	588	763	906
Jim Hogg	488	524	588	840	936	Jim Wells	393	529	588	781	806
Karnes	436	449	588	770	833	Kenedy	488	524	588	840	936
Kent	454	455	588	841	913	Kerr	593	642	722	931	960
Kimble	486	487	588	759	783	King	453	505	588	765	970
Kinney	482	484	588	800	949	Kleberg	505	540	607	886	1068

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 46

TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Knox	399	473	588	749	889
Lamb	453	505	588	765	970
Lavaca	470	519	588	777	799
Leon	524	575	640	833	858
Lipscomb	479	482	588	783	808
Llano	609	613	807	965	994
Lynn	453	505	588	765	970
McMullen	406	510	588	783	834
Marion	494	495	608	830	856
Mason	486	487	588	759	783
Maverick	490	491	588	854	881
Milam	383	473	588	761	809
Mitchell	454	455	588	841	913
Moore	415	510	588	856	881
Motley	453	505	588	765	970
Navarro	552	562	679	825	851
Nolan	456	457	588	758	1030
Oldham	479	482	588	783	808
Panola	489	530	588	716	1033
Pecos	485	530	588	713	863
Presidio	487	516	588	763	906
Reagan	486	487	588	759	783
Red River	443	508	614	752	904
Refugio	406	510	588	783	834
Runnels	486	487	588	759	783
San Augustine	487	488	588	764	1030
Schleicher	486	487	588	759	783
Shackelford	454	455	588	841	913
Sherman	479	482	588	783	808
Starr	488	532	588	857	1036
Sterling	486	487	588	759	783
Sutton	486	487	588	759	783
Terrell	487	516	588	763	906
Throckmorton	454	455	588	841	913
Trinity	568	610	684	819	886

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lamar	443	513	644	811	907
La Salle	482	484	588	800	949
Lee	473	538	597	817	842
Limestone	383	532	588	753	779
Live Oak	406	510	588	783	834
Loving	487	516	588	763	906
McCulloch	488	490	588	856	883
Madison	524	575	640	833	858
Martin	486	487	588	759	783
Matagorda	385	505	591	861	1038
Menard	486	487	588	759	783
Mills	469	504	637	836	958
Montague	446	570	636	803	1115
Morris	443	508	614	752	904
Nacogdoches	478	599	706	843	1155
Newton	487	488	588	764	1030
Ochiltree	479	482	588	821	846
Palo Pinto	500	501	621	858	882
Parmer	479	482	588	783	808
Polk	489	495	588	704	724
Rains	496	498	619	834	860
Real	482	484	588	800	949
Reeves	488	520	588	754	914
Roberts	479	482	588	783	808
Sabine	487	488	588	764	1030
San Saba	469	504	637	836	958
Scurry	388	459	588	856	940
Shelby	488	490	588	845	1030
Somervell	478	513	607	775	843
Stephens	437	447	588	810	880
Stonewall	454	455	588	841	913
Swisher	479	482	588	783	808
Terry	452	504	588	773	967
Titus	461	547	649	780	1140
Tyler	488	489	588	757	981

Upton	486	487	588	759	783	Uvalde	383	522	588	766	1031
Val Verde	420	502	593	738	859	Van Zandt	521	524	640	895	921
Walker	584	624	755	972	1258	Ward	489	495	588	733	870
Washington	560	637	705	989	1021	Wharton	472	530	588	778	801
Wheeler	479	482	588	783	808	Wilbarger	382	455	588	755	842
Willacy	488	530	588	856	953	Winkler	487	516	588	763	906
Wood	442	446	588	857	1031	Yoakum	453	505	588	765	970

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TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Young	384	447	589	747	869
Zavala	482	484	588	800	949
Zapata	488	524	588	840	936

UTAH

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Logan, UT-ID MSA	491	530	663	889	1098	Cache
Ogden-Clearfield, UT MSA	506	608	749	1030	1218	Davis, Morgan, Weber
Provo-Orem, UT MSA	544	598	699	1017	1225	Juab, Utah
Salt Lake City, UT HMFA	638	693	836	1176	1369	Salt Lake
St. George, UT MSA	560	587	697	1013	1140	Washington
Summit County, UT HMFA	686	953	1059	1483	1857	Summit
Tooele County, UT HMFA	532	595	708	895	1240	Tooele

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaver	535	537	656	929	989
Carbon	488	489	588	773	907
Duchesne	662	720	798	1030	1402
Garfield	535	537	656	929	989
Iron	491	518	596	868	1047
Millard	535	537	656	929	989
Rich	499	530	663	891	1081
Sanpete	535	537	656	929	989
Uintah	571	621	688	903	1016
Wayne	535	537	656	929	989
Box Elder	417	511	643	850	989
Daggett	495	538	596	773	1047
Emery	495	538	596	773	1047
Grand	496	540	599	772	1051
Kane	535	537	656	929	987
Piute	535	537	656	929	989
San Juan	495	538	596	773	1047
Sevier	535	537	656	929	989
Wasatch	554	647	853	1019	1224

VERMONT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington-South Burlington, VT MSA	804	889	1116	1428	1601	Chittenden County towns of Bolton town, Buels gore, Burlington city, Charlotte town, Colchester town, Essex town, Hinesburg town, Huntington town, Jericho town, Milton town, Richmond town, St. George town, Shelburne town, South Burlington city, Underhill town, Westford town, Williston town, Winooski city Franklin County towns of Bakersfield town, Berkshire town, Enosburg town, Fairfax town, Fairfield town, Fletcher town, Franklin town, Georgia town, Highgate town, Montgomery town, Richford town, St. Albans city, St. Albans town,

Sheldon town, Swanton town
Grand Isle County towns of Alburg town, Grand Isle town, Isle La Motte town, North Hero town, South Hero town

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 48

VERMONT continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Addison County, VT	579	725	872	1147	1529	Addison town, Bridport town, Bristol town, Cornwall town, Ferrisburg town, Goshen town, Granville town, Hancock town, Leicester town, Lincoln town, Middlebury town, Monkton town, New Haven town, Orwell town, Panton town, Ripton town, Salisbury town, Shoreham town, Starksboro town, Vergennes city, Waltham town, Weybridge town, Whiting town
Bennington County, VT	578	724	843	1098	1291	Arlington town, Bennington town, Dorset town, Glastenbury town, Landgrove town, Manchester town, Peru town, Pownal town, Readsboro town, Rupert town, Sandgate town, Searsburg town, Shaftsbury town, Stamford town, Sunderland town, Winhall town, Woodford town
Caledonia County, VT	545	567	711	900	932	Barnet town, Burke town, Danville town, Groton town, Hardwick town, Kirby town, Lyndon town, Newark town, Peacham town, Ryegate town, St. Johnsbury town, Sheffield town, Stannard town, Sutton town, Walden town, Waterford town, Wheelock town
Essex County, VT	564	633	769	980	1150	Averill town, Avery's gore, Bloomfield town, Brighton town, Brunswick town, Canaan town, Concord town, East Haven town, Ferdinand town, Granby town, Guildhall town, Lemington town, Lewis town, Lunenburg town, Maidstone town, Norton town, Victory town, Warner's grant, Warren's gore
Lamoille County, VT	570	685	797	1110	1400	Belvidere town, Cambridge town, Eden town, Elmore town, Hyde Park town, Johnson town, Morristown town, Stowe town, Waterville town, Wolcott town
Orange County, VT	608	687	800	1114	1148	Bradford town, Braintree town, Brookfield town, Chelsea town, Corinth town, Fairlee town, Newbury town, Orange town, Randolph town, Strafford town, Thetford town, Topsham town, Tunbridge town, Vershire town, Washington town, West Fairlee town, Williamstown town
Orleans County, VT	411	568	635	802	1008	Albany town, Barton town, Brownington town, Charleston town, Coventry town, Craftsbury town, Derby town, Glover town, Greensboro town, Holland town, Irasburg town, Jay town, Lowell town, Morgan town, Newport city, Newport town, Troy town, Westfield town, Westmore town
Rutland County, VT	522	683	794	1050	1343	Benson town, Brandon town, Castleton town, Chittenden town, Clarendon town, Danby town, Fair Haven town, Hubbardton town, Ira town, Killington town, Mendon town, Middletown Springs town, Mount Holly town, Mount Tabor town, Pawlet town, Pittsfield town, Pittsford town, Poultney town, Proctor town, Rutland city, Rutland town, Shrewsbury town, Sudbury town, Tinmouth town, Wallingford town, Wells town, West Haven town, West Rutland town
Washington County, VT	574	671	840	1135	1270	Barre city, Barre town, Berlin town, Cabot town, Calais town, Duxbury town, East Montpelier town, Fayston town, Marshfield town, Middlesex town, Montpelier city,

Windham County, VT					
Athens town, Brattleboro town, Brookline town, Dover town, Moretown town, Northfield town, Plainfield town, Roxbury town, Waitsfield town, Warren town, Waterbury town, Woodbury town, Worcester town	679	708	930	1123	1159

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 49

VERMONT continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
						Dummerston town, Grafton town, Guilford town, Halifax town, Jamaica town, Londonderry town, Marlboro town, Newfane town, Putney town, Rockingham town, Somerset town, Stratton town, Townshend town, Vernon town, Wardsboro town, Westminster town, Whitingham town, Wilmington town, Windham town
Windsor County, VT	640	717	843	1147	1365	Andover town, Baltimore town, Barnard town, Bethel town, Bridgewater town, Cavendish town, Chester town, Hartford town, Hartland town, Ludlow town, Norwich town, Plymouth town, Pomfret town, Reading town, Rochester town, Royalton town, Sharon town, Springfield town, Stockbridge town, Weathersfield town, Weston town, West Windsor town, Windsor town, Woodstock town

VIRGINIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Blacksburg-Christiansburg-Radford, VA HMFA	556	608	681	934	1197	Montgomery, Radford city
Charlottesville, VA MSA	635	763	903	1170	1295	Albemarle, Fluvanna, Greene, Nelson, Charlottesville city
Danville, VA MSA	404	463	598	746	801	Pittsylvania, Danville city
Franklin County, VA HMFA	371	444	571	683	727	Franklin
Giles County, VA HMFA	372	482	571	728	1004	Giles
Harrisonburg, VA MSA	512	569	692	969	996	Rockingham, Harrisonburg city
Kingsport-Bristol-Bristol, TN-VA MSA	428	460	571	765	915	Scott, Washington, Bristol city
Louisa County, VA HMFA	621	704	802	959	987	Louisa
Lynchburg, VA MSA	513	526	634	782	872	Amherst, Appomattox, Bedford, Campbell, Bedford city, Lynchburg city
Pulaski County, VA HMFA	433	458	571	818	879	Pulaski
*Richmond, VA HMFA	768	832	930	1241	1481	Amelia, Caroline, Charles, Chesterfield, Cumberland, Dinwiddie, Goochland, Hanover, Henrico, King and Queen, King William, New Kent, Powhatan, Prince George, Sussex, Colonial Heights city, Hopewell city, Petersburg city, Richmond city
Roanoke, VA HMFA	509	542	700	888	970	Botetourt, Craig, Roanoke, Roanoke city, Salem city
Virginia Beach-Norfolk-Newport News, VA-NC MSA	774	807	934	1277	1539	Gloucester, Isle of Wight, James, Mathews, Surry, York, Chesapeake city, Hampton city, Newport News city, Norfolk city, Poquoson city, Portsmouth city, Suffolk city, Virginia Beach city, Williamsburg city
Warren County, VA HMFA	562	654	814	1144	1179	Warren
*Washington-Arlington-Alexandria, DC-VA-MD HMFA	1156	1318	1494	1927	2522	Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, Alexandria city, Fairfax city, Falls Church city, Fredericksburg city, Manassas city, Manassas Park city
Winchester, VA-WV MSA	558	579	764	1054	1085	Frederick, Winchester city

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 50

VIRGINIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack	390	533	600	729	898	Alleghany	371	476	571	694	723
Augusta	498	512	668	955	1099	Bath	489	509	632	872	1053
Bland	476	492	571	728	809	Brunswick	491	507	591	737	1020
Buchanan	476	492	571	728	809	Buckingham	475	513	571	734	928
Carroll	475	515	571	685	761	Charlotte	475	513	571	734	928
Culpeper	640	651	771	997	1059	Dickenson	476	509	571	745	766
Essex	459	566	697	949	978	Floyd	525	571	633	881	1115
Grayson	476	492	571	728	809	Greensville	492	533	592	715	888
Halifax	371	516	571	767	1003	Henry	440	458	571	732	839
Highland	489	509	632	872	1053	King George	647	648	779	1133	1166
Lancaster	458	564	687	845	910	Lee	370	447	571	734	777
Lunenburg	491	507	591	737	1020	Madison	505	563	680	941	971
Mecklenburg	374	466	575	706	941	Middlesex	458	564	687	837	910
Northampton	458	564	687	837	910	Northumberland	458	564	687	837	910
Nottoway	475	513	571	811	928	Orange	457	629	700	1019	1229
Page	389	453	595	768	791	Patrick	473	516	571	707	729
Prince Edward	554	555	667	798	1069	Rappahannock	505	563	680	941	971
Richmond	458	564	687	837	910	Rockbridge	456	513	571	831	1002
Russell	372	493	571	699	721	Shenandoah	469	503	615	820	909
Smyth	472	513	571	725	939	Southampton	413	572	634	784	1116
Tazewell	476	477	571	733	829	Westmoreland	464	565	714	980	1009
Wise	475	484	571	743	936	Wythe	371	470	571	749	1004
Buena Vista city	456	513	571	831	1002	Clifton Forge city	371	476	571	694	723
Covington city	371	476	571	694	723	Emporia city	492	533	592	715	888
Franklin city	413	572	634	784	1116	Galax city	475	515	571	685	761
Lexington city	456	513	571	831	1002	Martinsville city	440	458	571	732	839
Norton city	475	484	571	743	936	Staunton city	498	512	668	955	1099
Waynesboro city	498	512	668	955	1099						

WASHINGTON

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	588	649	814	1188	1338	Whatcom
Bremerton-Silverdale, WA MSA	647	726	894	1279	1397	Kitsap
Kennewick-Pasco-Richland, WA MSA	518	565	709	959	1136	Benton, Franklin
Lewiston, ID-WA MSA	494	513	642	912	1111	Asotin

Longview, WA MSA	460	579	672	979	1116	Cowlitz
Mount Vernon-Anacortes, WA MSA	590	730	906	1239	1547	Skagit
Olympia, WA MSA	609	684	874	1269	1535	Thurston
Portland-Vancouver-Beaverton, OR-WA MSA	626	726	839	1222	1467	Clark, Skamania
Seattle-Bellevue, WA HMFA	770	878	1056	1492	1823	King, Snohomish
Spokane, WA MSA	449	526	693	951	1079	Spokane
*Tacoma, WA HMFA	665	776	968	1410	1587	Pierce
Wenatchee-East Wenatchee, WA MSA	536	567	717	967	1114	Chelan, Douglas

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 51

WASHINGTON continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Yakima, WA MSA	494	580	750	988	1042	Yakima

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	417	497	637	855	882	Clallam	526	582	757	1106	1140
Columbia	430	502	662	894	1067	Ferry	417	493	637	855	882
Garfield	430	502	662	894	1067	Grant	425	506	654	884	907
Grays Harbor	432	507	666	938	964	Island	779	781	942	1371	1654
Jefferson	539	661	808	1175	1209	Kittitas	482	562	741	993	1031
Klickitat	558	566	672	943	972	Lewis	465	595	715	955	999
Lincoln	417	493	637	855	882	Mason	524	616	739	1009	1196
Okanogan	466	562	660	903	994	Pacific	457	492	645	915	951
Pend Oreille	417	493	637	855	882	San Juan	659	709	876	1259	1537
Stevens	414	499	637	873	953	Wahkiakum	464	576	673	980	1124
Walla Walla	430	502	662	952	981	Whitman	466	513	666	940	1152

WEST VIRGINIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boone County, WV HMFA	353	458	543	672	744	Boone
Charleston, WV HMFA	468	511	639	814	838	Clay, Kanawha, Lincoln, Putnam
Cumberland, MD-WV MSA	414	501	588	793	926	Mineral
Huntington-Ashland, WV-KY-OH MSA	414	490	588	725	749	Cabell, Wayne
Jefferson County, WV HMFA	504	680	774	1130	1361	Jefferson
Martinsburg, WV HMFA	541	610	733	981	1176	Berkeley, Morgan
Morgantown, WV MSA	492	511	605	785	930	Monongalia, Preston
Parkersburg-Marietta-Vienna, WV-OH MSA	429	459	588	781	843	Pleasants, Wirt, Wood
Weirton-Steubenville, WV-OH MSA	389	477	588	734	797	Brooke, Hancock
Wheeling, WV-OH MSA	382	460	588	739	863	Marshall, Ohio
Winchester, VA-WV MSA	558	579	764	1054	1085	Hampshire

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	418	436	543	711	749	Braxton	418	436	543	711	749
Calhoun	396	471	572	743	854	Doddridge	374	477	563	678	802
Fayette	452	453	543	672	722	Gilmer	418	436	543	711	749
Grant	473	546	614	804	998	Greenbrier	431	491	543	653	858
Hardy	473	546	614	804	998	Harrison	466	467	561	703	785

Jackson	396	471	572	743	854	Lewis	428	464	543	681	700
Logan	379	460	543	667	686	McDowell	453	469	543	741	941
Marion	387	495	594	710	865	Mason	451	460	543	688	735
Mercer	451	468	543	734	930	Mingo	353	476	543	684	888
Monroe	451	490	543	677	700	Nicholas	451	489	543	691	756
Pendleton	472	545	615	803	996	Pocahontas	451	469	543	665	788
Raleigh	457	486	548	700	721	Randolph	427	428	552	712	733

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 52

WEST VIRGINIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ritchie	396	471	572	743	854	Roane	396	471	572	743	854
Summers	451	490	543	677	700	Taylor	374	477	563	674	802
Tucker	418	436	543	711	749	Tyler	396	471	572	743	854
Upshur	353	441	543	729	753	Webster	451	469	543	665	788
Wetzel	355	483	543	691	786	Wyoming	453	469	543	741	941

WISCONSIN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton, WI MSA	527	542	672	969	997	Calumet, Outagamie
Columbia County, WI HMFA	500	584	769	1038	1071	Columbia
Duluth, MN-WI MSA	409	499	629	790	1006	Douglas
Eau Claire, WI MSA	416	497	621	841	876	Chippewa, Eau Claire
Fond du Lac, WI MSA	502	538	648	851	923	Fond du Lac
Green Bay, WI HMFA	543	556	700	984	1014	Brown, Kewaunee
Iowa County, WI HMFA	482	562	740	884	909	Iowa
Janesville, WI MSA	494	577	719	941	968	Rock
Kenosha County, WI HMFA	652	679	843	1159	1334	Kenosha
La Crosse, WI-MN MSA	412	483	635	843	1035	La Crosse
Madison, WI HMFA	610	761	899	1206	1494	Dane
*Milwaukee-Waukesha-West Allis, WI MSA	602	718	858	1081	1114	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul-Bloomington, MN-WI MSA	628	741	899	1177	1322	Pierce, St. Croix
Oconto County, WI HMFA	437	530	588	761	793	Oconto
Oshkosh-Neenah, WI MSA	466	548	649	851	1103	Winnebago
Racine, WI MSA	506	591	742	923	1013	Racine
Sheboygan, WI MSA	418	538	635	785	963	Sheboygan
Wausau, WI MSA	415	518	639	853	943	Marathon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	442	485	600	781	805	Ashland	454	456	588	747	1012
Barron	391	493	588	750	772	Bayfield	402	469	588	753	781
Buffalo	409	464	593	752	785	Burnett	402	469	588	753	781
Clark	380	449	588	804	828	Crawford	489	523	588	730	899
Dodge	585	587	707	895	966	Door	432	552	664	892	1000
Dunn	447	482	605	882	906	Florence	393	475	588	748	785
Forest	442	485	600	781	805	Grant	488	489	588	761	1032
Green	431	464	609	773	903	Green Lake	442	507	588	770	939
Iron	402	469	588	753	781	Jackson	409	464	593	752	785

Jefferson	503	589	776	930	1172	Juneau	388	478	596	784	809		
Lafayette	434	457	588	753	844	Langlade	488	489	588	776	846		
Lincoln	490	491	588	856	883	Manitowoc	391	458	603	721	897		
Marinette	490	529	588	770	794	Marquette	452	507	617	795	882		
Menominee	452	507	617	795	882	Monroe	404	471	621	788	861		
Oneida	438	479	628	803	1105	Pepin	409	464	593	752	785		

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 53

WISCONSIN continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Polk	447	522	686	844	871	Portage	514	520	621	822	846
Price	402	469	588	753	781	Richland	413	462	588	754	778
Rusk	402	469	588	753	781	Sauk	444	590	677	910	939
Sawyer	402	473	588	753	781	Shawano	405	477	588	734	843
Taylor	402	469	588	753	781	Trempealeau	462	464	588	803	827
Vernon	467	469	588	743	810	Vilas	442	485	600	817	842
Walworth	518	610	795	992	1024	Washburn	402	469	588	753	781
Waupaca	397	499	606	791	815	Waushara	452	507	617	795	882
Wood	390	479	593	722	790						

WYOMING

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	479	524	662	963	1160	Natrona
Cheyenne, WY MSA	571	603	764	1040	1339	Laramie

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Albany	520	596	756	1038	1099	Big Horn	516	539	645	842	1007
Campbell	579	623	698	945	1030	Carbon	402	481	618	774	941
Converse	383	473	588	802	1034	Crook	516	539	645	842	1007
Fremont	510	512	651	816	1040	Goshen	496	497	599	739	1017
Hot Springs	516	539	645	842	1007	Johnson	517	539	664	843	1008
Lincoln	569	603	686	916	1084	Niobrara	516	539	645	842	1007
Park	483	555	653	820	1081	Platte	516	539	645	842	1007
Sheridan	519	559	687	879	1072	Sublette	573	603	700	916	1085
Sweetwater	478	580	728	1018	1056	Teton	887	989	1244	1640	1688
Uinta	496	625	712	973	1154	Washakie	516	539	645	842	1007
Weston	516	539	645	842	1007						

GUAM

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	786	844	1030	1501	1794						

PUERTO RICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla-Isabela-San Sebastián, PR MSA	339	369	409	526	589	Aguada, Aguadilla, Añasco, Isabela, Lares, Moca, Rincón, San Sebastián
Arecibo, PR HMFA	358	389	432	589	690	Arecibo, Camuy, Hatillo
Barranquitas-Aibonito-Quebradillas, PR HMFA	353	381	424	540	620	Aibonito, Barranquitas, Ciales, Maunabo, Orocovis, Quebradillas
Caguas, PR HMFA	393	426	474	657	792	Caguas, Cayey, Cidra, Gurabo, San Lorenzo

SCHEDULE B - FY 2010 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 54

PUERTO RICO continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fajardo, PR MSA	408	444	493	717	864	Ceiba, Fajardo, Luquillo
Guayama, PR MSA	359	387	431	612	758	Arroyo, Guayama, Patillas
Mayagüez, PR MSA	386	419	465	556	767	Hormigueros, Mayagüez
Ponce, PR MSA	416	452	500	695	792	Juana Díaz, Ponce, Villalba
San Germán-Cabo Rojo, PR MSA	336	349	404	528	570	Cabo Rojo, Lajas, Sabana Grande, San Germán
San Juan-Guaynabo, PR HMFA	478	518	576	763	902	Aguas Buenas, Barceloneta, Bayamón, Canóvanas, Carolina, Cataño, Comerío, Corozal, Dorado, Florida, Guaynabo, Humacao, Juncos, Las Piedras, Loíza, Manatí, Morovis, Naguabo, Naranjito, Río Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, Vega Baja, Yabucoa
Yauco, PR MSA	332	351	399	503	640	Guánica, Guayanilla, Peñuelas, Yauco

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adjuntas	331	358	399	547	593	Coamo	331	358	399	547	593
Culebra	331	358	399	547	593	Jayuya	331	358	399	547	593
Las Marías	331	358	399	547	593	Maricao	331	358	399	547	593
Salinas	331	358	399	547	593	Santa Isabel	331	358	399	547	593
Utuado	331	358	399	547	593	Vieques	331	358	399	547	593

VIRGIN ISLANDS

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. Croix	577	601	729	911	1042	St. John	657	785	1010	1251	1308
St. Thomas	657	785	1010	1251	1308						

Note1: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.
Note2: 50th percentile FMRs are indicated by an * before the FMR Area name. 09/10/2009

SCHEDULE D - FY 2010 FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

State	Area Name	Space Rent
California	Los Angeles-Long Beach, CA HUD Metro FMR A	$640
	Orange County, CA HUD Metro FMR Area	$777
	Riverside-San Bernardino-Ontario, CA MSA	$504
	San Diego-Carlsbad-San Marcos, CA MSA	$770
	Santa Rosa-Petaluma, CA MSA	$669
	Vallejo-Fairfield, CA MSA	$538
Colorado	Boulder, CO MSA	$439
Maryland	St. Mary's County	$474
Oregon	Bend, OR MSA	$343
	Salem, OR MSA	$459
Pennsylvania	Adams County	$532
Washington	Olympia, WA MSA	$564
	Seattle-Bellevue, WA HUD Metro FMR Area	$622
West Virginia	Logan County	$430
	McDowell County	$430
	Mercer County	$430
	Mingo County	$430
	Wyoming County	$430

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Federal Register

Wednesday,
September 30, 2009

Part IV

The President

Proclamation 8422—Gold Star Mother's and Families' Day, 2009

Proclamation 8423—National Public Lands Recognition Day, 2009

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Presidential Documents

Title 3—

The President

Proclamation 8422 of September 25, 2009

Gold Star Mother's and Families' Day, 2009

By the President of the United States of America

A Proclamation

The sacrifices of our military servicemembers are etched in the walls of our monuments and felt at empty dinner tables across America. To those who have given their lives for our country, we honor them as guardians of our liberty and pay tribute to their valiant service. As our Nation remembers our fallen men and women in uniform, we also recognize the profound loss and sorrow of the family members they leave behind.

Few know the honor of service and the costs of war more than Gold Star Mothers and Families. They have given our Nation their most precious treasure, and we remain forever in their debt. Honoring the memory of their lost loved ones, these extraordinary individuals dedicate themselves to helping heal the hearts of other military families who bear the great burden of loss. Through their strength and service, they emulate their loved one's selfless dedication to our country.

On this day, we express immense gratitude and profound respect for Gold Star Mothers and Families. Our country's fallen heroes left the comfort of home so that we might know a more peaceful world. They endured extreme hardship so that we might enjoy freedom. They made the ultimate sacrifice so that we might be safe. They represent the best of America. In their memory, may we fulfill our solemn obligation to continue their work of securing a safer, freer world for generations to come.

The Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Sunday, September 27, 2008, as Gold Star Mother's and Families' Day. I call upon all Government officials to display the flag of the United States over Government buildings on this special day. I also encourage the American people to display the flag and hold appropriate ceremonies as a public expression of our Nation's sympathy and respect for our Gold Star Mothers and Families.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of September, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-fourth.

[FR Doc. E9–23755
Filed 9–29–09; 11:15 am]
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Presidential Documents

Proclamation 8423 of September 25, 2009

National Public Lands Recognition Day, 2009

By the President of the United States of America

A Proclamation

Borne out of a commitment to protect and preserve our natural treasures, America's public lands are an indispensable component of American life. As we work to protect their integrity for future generations, vast expanses of land remain available for the use and enjoyment of all who visit them. National Public Lands Day is an opportunity for all Americans, young and old, to celebrate the majesty of our open spaces and devote our collective efforts to conserving our Nation's unique landscapes.

Today, from the largest National Parks and Forests to neighborhood playgrounds and urban parks, 130,000 volunteers are working on over 2,000 public land improvement projects across the Nation. Committed individuals, including participants from schools and universities, private businesses, nonprofit organizations, and government agencies, are continuing the American tradition of stewardship through their service.

Dedicated to improving all aspects of our natural environment, this year's Public Lands Day focuses on water. Across the country, volunteers are highlighting the need to protect our Nation's water bodies by monitoring water quality in rivers and lakes, restoring wetlands, preventing stormwater runoff and erosion, cleaning up trash from shorelines, and learning techniques to conserve water at home.

Public lands help preserve our Nation's quality of life, offering fresh water, abundant natural resources, and educational and recreational opportunities. I was proud to sign the Omnibus Public Land Management Act of 2009 to add to our Nation's treasured landscapes and build on our rich history as guardians of our natural environment. Today, we affirm our resolve to conserve these cherished spaces for our enjoyment and for that of future generations.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 26, 2009, as National Public Lands Day. I invite all my fellow citizens to join me in a day of service for our public lands.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of September, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-fourth.

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